UNITED STATES CODE

1970 EDITION

SUPPLEMENT V

CONTAINING THE GENERAL AND PERMANENT LAWS OF
THE UNITED STATES ENACTED DURING THE
92D AND 93D CONGRESSES AND
94TH CONGRESS, FIRST SESSION

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JANUARY 21, 1971 TO JANUARY 18, 1976

VOLUME TWO

TITLE 20—EDUCATION

TO

TITLE 41—PUBLIC CONTRACTS

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PREFACE

This fifth supplement to the 1970 edition of the United States Code has been prepared and published pursuant to section 285b of title 2 of the Code. It contains the additions to and changes in the general and permanent laws of the United States enacted during the Ninety-second and Ninety-third Congresses, and the Ninety-fourth Congress, First Session. This supplement together with the 1970 edition establishes prima facie those laws in effect on January 18, 1976, except that titles 1, 3, 4, 5, 6, 9, 10, 13, 14, 17, 18, 23, 28, 32, 35, 37, 38, 39, and 44, having been enacted into law, establish legal evidence of the law contained in those titles.

In addition to the general and permanent laws found herein, this supplement includes the Bankruptcy Rules and Official Bankruptcy Forms, set out in the Appendix to Title 11; the Rules of Procedure of the Judicial Panel of Multi-district Litigation, set out following section 1407 of Title 28; the amendments to the Federal Rules of Criminal Procedure, effective December 1, 1975; the Federal Rules of Evidence, effective July 1, 1975, set out in the Appendix to Title 28; and the Rules of United States Court of Customs and Patent Appeals, set out in the Appendix to Title 35. These rules are incorporated into the Code to enable the user to locate in one convenient place not only the statutory enactments but also the latest procedural developments in certain specialized areas.

Increased interest in the affairs of the District of Columbia is also evident by new reference material first set out in the third supplement. Two new Tables, Tables III–A and III–B, have been added as aids in determining the relationship between provisions of the United States Code and the District of Columbia Code.

This supplement continues the practice of setting out notes captioned "Section referred to in other sections". These notes have been inserted following each section that is referred to in the text of another section, indicating the section that contains the internal reference. These notes have proved to be useful to the Congress, the bench and bar, and the public.

This supplement has been prepared and published under the supervision of Edward F. Willett, Jr., Law Revision Counsel of the House of Representatives, with the assistance of the West Publishing Company, of St. Paul, Minnesota, which assisted in preparing all prior editions and supplements of the Code. Grateful acknowledgment is made of the cooperation by all who have helped in this work, particularly by the staffs of the publishing company and of the Office of the Law Revision Counsel, and by the several sections of the Government Printing Office.

Carl Albert

Speaker of the House of Representatives

JANUARY 18, 1976.

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Chapter 1.—OFFICE OF EDUCATION

§ 1. Repealed. Pub. L. 92–318, title III, § 301(b)(2)(A), June 23, 1972, 86 Stat. 332.

Section, R.S. § 516, established the Office of Education and provided for the purpose and duties of the Office, now covered by sections 1221a and 1221c of this title.

EFFECTIVE DATE OF REPEAL

Section 301(b)(2)(A) of Pub. L. 92–318 provided in part that the repeal of this section shall be effective July 1, 1972.

EXECUTIVE ORDER No. 11185

Ex. Ord. No. 11185, Oct. 16, 1964, 29 F.R. 14399, as amended by Ex. Ord. No. 11260, Dec. 11, 1965, 30 F.R. 15395; Ex. Ord. No. 11661, Mar. 24, 1972, 37 F.R. 6281, formerly set out as a note under this section, which provided for the coordination of federal education programs, was superseded by Ex. Ord. No. 11761, Jan. 17, 1974, 39 F.R. 2345, set out as a note under section 1221 of this title.

§ 2. Repealed. Pub. L. 92–318, title III, § 301(b)(2)(A), June 23, 1972, 86 Stat. 332.

Section, R.S. § 517, provided for the appointment of a Commissioner of Education to manage the Office of Education, now covered by section 1221c of this title.

EFFECTIVE DATE OF REPEAL

Section 301(b)(2)(A) of Pub. L. 92–318 provided in part that the repeal of this section shall be effective July 1, 1972.

Chapter 2.—TEACHING OF AGRICULTURAL, TRADE, HOME ECONOMICS, AND INDUSTRIAL SUBJECTS

§ 13. Same; paying salaries of teachers of trade, home economics, and industrial subjects; amounts; allotment of funds to States.

For the purpose of cooperating with the States in paying the salaries of teachers of trade, home economics, and industrial subjects there is annually appropriated for the use of the States the sum of $3,000,000. Said appropriation shall be allotted to the States in the proportion which their urban population bears to the total urban population in the United States, not including outlying possessions, according to the last preceding United States census. The allotment of funds to any State shall be not less than a minimum of $10,000 for any fiscal year. There is appropriated the sum of $50,000 annually, or so much thereof as may be needed, which shall be used for the purpose of providing the minimum allotment to the States provided for in this section.

Not more than 20 per centum of the money appropriated under sections 11 to 15 and 16 to 28 of this title for the payment of salaries of teachers of trade, home economics, and industrial subjects, for any year, shall be expended for the salaries of teachers of home economics subjects. (Feb. 23, 1917, ch. 114, § 3, 39 Stat. 930.)

CODIFICATION

Section is set out in this Supplement to correct a typographical error.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 11, 12, 16, 18, 19, 20, 22, 23, 24, 25, 26, 27, 28 of this title.

Chapter 3.—SMITHSONIAN INSTITUTION, NATIONAL MUSEUMS AND ART GALLERIES

§ 50. Reception and arrangement of specimens and objects of art.

SMITHSONIAN INSTITUTION PLANS FOR MUSEUM SUPPORT FACILITIES; SITUS; TRANSFER OF LAND; APPROPRIATIONS.

Pub. L. 94–98, Sept. 19, 1975, 89 Stat. 480, provided:

"The Regents of the Smithsonian Institution are authorized to prepare plans for museum support facilities to be used for (1) the care, curation, conservation, deposit, preparation, and study of the national collections of scientific, historic, and artistic objects, specimens, and artifacts; (2) the related documentation of such collections of the Smithsonian Institution; and (3) the training of museum conservators.

"SEC. 2. The museum support facilities referred to in section 1 shall be located on federally owned land within the metropolitan area of Washington, District of Columbia. Any Federal agency is authorized to transfer land under its jurisdiction to the Smithsonian Institution for such purposes without reimbursement.

"SEC. 3. There are hereby authorized to be appropriated to the Smithsonian Institution such sums as may be necessary to accomplish the purposes of this Act."

§ 65a. Director of the National Museum; duties; programs and studies; annual report to Congress; authorization of appropriations.

(a) The Director of the National Museum under the direction of the Secretary of the Smithsonian Institution shall—

* * * * *

(4) perform research on, and otherwise contribute to, the development of museum techniques, with emphasis on museum conservation and the development of a national institute for museum conservation;

* * * * *

(b) There are authorized to be appropriated to the Smithsonian Institution such sums as may be

necessary to carry out the purposes of this section: *Provided*, That no more than $1,000,000 shall be appropriated annually through fiscal year 1977, of which no less than $200,000 annually shall be allocated and used to carry out the purposes of subsection (a)(4) of this section. (As amended Pub. L. 93–345, §§ 1, 2, July 12, 1974, 88 Stat. 339.)

AMENDMENTS

1974—Subsec. (a)(4). Pub. L. 93–345, § 1, inserted ", with emphasis on museum conservation and the development of a national institute for museum conservation" following "museum techniques".

Subsec. (b). Pub. L. 93–345, § 2, substituted provisions limiting to $1,000,000 the amount which may be appropriated annually through fiscal year 1977, with no less than $200,000 annually to be allocated and used to carry out the purposes of subsection (a)(4) of this section for provisions limiting to $1,000,000 the amount which could be appropriated annually through fiscal year 1974, of which $300,000 annually had to be allocated and used according to the formula of 33⅓ per centum for purposes of subsec. (a)(2), 33⅓ per centum for assistance to museums under section 954(c) of this title, and 33⅓ per centum for assistance to museums under section 956(c) of this title.

§ 71. National Gallery of Art; designation of site.

SECTION REFERRED TO IN D.C. CODE

This section is referred to in section 9–145 of the District of Columbia Code.

Chapter 4.—NATIONAL ZOOLOGICAL PARK

§ 84. Same; plans for buildings and bridges.

CODIFICATION

Section is also set out in D.C. Code, § 8–134.

Chapter 5.—GOVERNMENT COLLECTIONS AND INSTITUTIONS FOR RESEARCH; AND MATERIAL FOR EDUCATIONAL INSTITUTIONS

§ 91. Literary and scientific collections accessible to investigators and students.

The facilities for study research and illustration in the Government departments and in the following and any other governmental collections now existing or hereafter to be established in the city of Washington for the promotion of knowledge shall be accessible, under such rules and restrictions as the officers in charge of each department or collection may prescribe, subject to such authority as is now or may hereafter be permitted by law, to the scientific investigators and to duly qualified individuals, students and graduates of any institution of learning in the several States and Territories and the District of Columbia, to wit:

One. Of the Library of Congress.
Two. Of the National Museum.
Three. Of the Patent and Trademark Office.
Four. Of the Office of Education.
Five. Of the Bureau of Ethnology.
Six. Of the Army Medical Museum.
Seven. Of the Department of Agriculture.
Eight. Of the Fish and Wildlife Service.
Nine. Of the Botanic Gardens.
Ten. Of the Coast and Geodetic Survey.
Eleven. Of the Geological Survey.
Twelve. Of the Naval Observatory.
Thirteen. Of the Zoological Park.
Fourteen. Of the Government Printing Office.
(As amended Jan. 2, 1975, Pub. L. 93–596, § 3, 88 Stat. 1949.)

AMENDMENTS

1975—Pub. L. 93–596 substituted "Patent and Trademark Office" for "Patent Office".

TRANSFER OF FUNCTIONS

The effective date of Reorg. Plan No. 4 of 1970, referred to in the note under this section in the 1970 ed. of the Code, is Oct. 3, 1970, and not Oct. 30, 1970, as shown therein.

Chapter 6A.—VENDING FACILITIES FOR BLIND IN FEDERAL BUILDINGS

Sec.
107b–1. Access to information with State licensing agencies; Election and responsibilities of Committee of Blind Vendors [New].
107b–2. Standards, studies, and reports [New].
107b–3. Audit of nonappropriated fund activities [New].
107d–1. Grievances of blind licensees; hearing and arbitration; noncompliance by federal departments and agencies; complaints by state licensing agencies; arbitration [New].
107d–2. Arbitration [New].
(a) Notice and hearing.
(b) Composition of panel; designation of chairman; termination of violations.
(c) Publication of decisions in Federal Register.
(d) Payment of costs by the Secretary.
107d–3. Vending machine income [New].
(a) Accrual to blind licensee and alternatively to state agency; ceiling on amount for individual licensee.
(b) Direct competition between vending machine and vending facility; proportion of accrued income from such vending machines for individual licensee.
(c) Disposal of accrued vending machine income by state licensing agency.
(d) Income from vending machines in certain locations excepted.
(e) Regulations establishing priority for operation of cafeterias.
(f) Existing arrangements more favorable to blind licensees unaffected.
(g) Regulations for compliance.
107d–4. Training programs for maximum vocational potential for blind [New].

CHAPTER REFERRED TO IN D.C. CODE

This chapter is referred to in section 1–244 of the District of Columbia Code.

§ 107. Operation of vending facilities authorized; preferences regulations; justification for limitation on such operation.

(a) For the purposes of providing blind persons with remunerative employment, enlarging the economic opportunities of the blind, and stimulating the blind to greater efforts in striving to make themselves self-supporting, blind persons licensed under the provisions of this chapter shall be authorized to operate vending facilities on any Federal property.

(b) In authorizing the operation of vending facilities on Federal property, priority shall be given to blind persons licensed by a State agency as provided in this chapter; and the Secretary, through the Commissioner, shall, after consultation with the Administrator of General Services and other heads of departments, agencies, or instrumentalities of the United States in control of the maintenance, opera-

tion, and protection of Federal property, prescribe regulations designed to assure that—

(1) the priority under this subsection is given to such licensed blind persons (including assignment of vending machine income pursuant to section 107d–3 of this title to achieve and protect such priority), and

(2) wherever feasible, one or more vending facilities are established on all Federal property to the extent that any such facility or facilities would not adversely affect the interests of the United States.

Any limitation on the placement or operation of a vending facility based on a finding that such placement or operation would adversely affect the interests of the United States shall be fully justified in writing to the Secretary, who shall determine whether such limitation is justified. A determination made by the Secretary pursuant to this provision shall be binding on any department, agency, or instrumentality of the United States affected by such determination. The Secretary shall publish such determination, along with supporting documentation, in the Federal Register. (As amended Dec. 7, 1974, Pub. L. 93–516, title II, § 202, 88 Stat. 1623.)

AMENDMENTS

1974—Subsec. (a). Pub. L. 93–516 designated first sentence of existing provisions as subsec. (a), and in subsec. (a), as so designated, substituted "purposes" for "purpose", "vending facilities" for "vending stands", and struck out "where such vending stands may be properly and satisfactorily operated by blind persons".

Subsec. (b). Pub. L. 93–516 designated second sentence of existing provisions as subsec. (b), in the provisions preceding par. (1) of subsec. (b) as so designated, substituted reference to vending facilities for reference to vending stands, substituted provisions requiring that priority be given to blind persons for provisions requiring that preference be given so far as feasible to blind persons, substituted provisions authorizing the Secretary after consultation with the Administrator of General Services, and other heads of departments, agencies, or instrumentalities of the United States in control of maintenance, operation, and protection of federal property to prescribe regulations for provisions authorizing the head of each department or agency in control of the maintenance, operation, and protection of federal property after consultation with the Secretary and with the approval of the President to prescribe regulations, struck out provisions that such regulations assure such preference including assignment of vending machine income to achieve and protect such preference for such blind persons without unduly inconveniencing such departments and agencies or adversely affecting the interests of the United States, and added pars. (1) and (2) and provisions following par. (2).

SHORT TITLE OF 1974 AMENDMENT

Section 200 of Pub. L. 93–516 provided that: "This title [enacting sections 107b–1 to 107b–3 and 107d–1 to 107d–4 of this title, amending this section and sections 107a, 107b, 107d, 107e of this title, and section 5108 of Title 5, Government Organization and Employees, repealing sections 107c and 107e–1 of this title, and enacting provisions set out as notes under this section and section 702 of Title 29, Labor] may be cited as the 'Randolph-Sheppard Act Amendments of 1974'."

CONGRESSIONAL FINDINGS

Section 201 of Pub. L. 93–516 provided that:

"The Congress finds—

"(1) after review of the operation of the blind vending stand program authorized under the Randolph-Sheppard Act of June 20, 1936 [this chapter], that the program has not developed, and has not been sustained, in the manner and spirit in which the Congress intended at the time of its enactment, and that, in fact, the growth of the program has been inhibited by a number of external forces;

"(2) that the potential exists for doubling the number of blind operators on Federal and other property under the Randolph-Sheppard program within the next five years, provided the obstacles to growth are removed, that legislative and administrative means exist to remove such obstacles, and that Congress should adopt legislation to that end; and

"(3) that at a minimum the following actions must be taken to insure the continued vitality and expansion of the Randolph-Sheppard program—

"(A) establish uniformity of treatment of blind vendors by all Federal departments, agencies, and instrumentalities,

"(B) establish guidelines for the operation of the program by State licensing agencies,

"(C) require coordination among the several entities with responsibility for the program,

"(D) establish a priority for vending facilities operated by blind vendors on Federal property,

"(E) establish administrative and judicial procedures under which fair treatment of blind vendors, State licensing agencies, and the Federal Government is assured,

"(F) require stronger administration and oversight functions in the Federal office carrying out the program, and

"(G) accomplish other legislative and administrative objectives which will permit the Randolph-Sheppard program to flourish."

DELEGATION OF FUNCTIONS

Authority of the President under this section to approve regulations prescribed by the heads of the respective departments and agencies thereunder delegated to the Secretary of Health, Education, and Welfare, see section 3(1) of Ex. Ord. No. 11609, July 22, 1971, 36 F.R. 13747, set out as a note under section 301 of Title 3, The President.

EXECUTIVE ORDER NO. 10604

Ex. Ord. No. 10604, Apr. 22, 1955, 20 F.R. 2747, set out as a note under this section, which delegated to the Director of the Bureau of the Budget the authority vested in the President under this section to approve regulations prescribed by the head of the respective departments and agencies, was superseded by Ex. Ord. No. 11609, July 22, 1971, 36 F.R. 13747, set out as a note under section 301 of Title 3, The President.

SECTION REFERRED TO IN OTHER SECTIONS

This section is refererd to in sections 107a, 107d–1 of this title; title 39 section 410.

§ 107a. Surveys by Secretary of Health, Education, and Welfare; designating State licensing agencies; qualifications for license; preferences; selection of locations.

(a) The Secretary of Health, Education, and Welfare shall—

(1) Insure that the Rehabilitation Services Administration is the principal agency for carrying out this chapter; and the Commissioner shall, within one hundred and eighty days after December 7, 1974, establish requirements for the uniform application of this chapter by each State agency designated under paragraph (5) of this subsection, including appropriate accounting procedures, policies on the selection and establishment of new vending facilities, distribution of income to blind vendors, and the use and control of set-aside funds under section 107b(3) of this title;

(2) Through the Commissioner, make annual surveys of concession vending opportunities for blind persons on Federal and other property in the United States, particularly with respect to Federal

property under the control of the General Services Administration, the Department of Defense, and the United States Postal Service;

(3) Make surveys throughout the United States of industries with a view to obtaining information that will assist blind persons to obtain employment;

(4) Make available to the public, and especially to persons and organizations engaged in work for the blind, information obtained as a result of such surveys;

(5) Designate as provided in section 107b of this title the State agency for the blind in each State, or in any State in which there is no such agency, some other public agency to issue licenses to blind persons who are citizens of the United States for the operating of vending facilities on Federal and other property in such State for the vending of newspapers, periodicals, confections, tobacco products, foods, beverages, and other articles or services dispensed automatically or manually and prepared on or off the premises in accordance with all applicable health laws, as determined by State licensing agency, and including the vending or exchange of chances for any lottery authorized by State law and conducted by an agency of a State; and

(6) Through the Commission, (A) conduct periodic evaluations of the program authorized by this chapter, including upward mobility and other training required by section 107d–4 of this title, and annually submit to the appropriate committees of Congress a report based on such evaluations, and (B) take such other steps, including the issuance of such rules and regulations, as may be necessary or desirable in carrying out the provisions of this chapter.

(b) The State licensing agency shall, in issuing each such license for the operation of a vending facility, give preference to blind persons who are in need of employment. Each such license shall be issued for an indefinite period but may be terminated by the State licensing agency if it is satisfied that the facility is not being operated in accordance with the rules and regulations prescribed by such licensing agency. Such licenses shall be issued only to applicants who are blind within the meaning of section 107e of this title.

(c) The State licensing agency designated by the Secretary is authorized, with the approval of the head of the department or agency in control of the maintenance, operation, and protection of the Federal property on which the facility is to be located but subject to regulations prescribed pursuant to section 107 of this title, to select a location for such facility and the type of facility to be provided.

(d)(1) After January 1, 1975, no department, agency, or instrumentality of the United States shall undertake to acquire by ownership, rent, lease, or to otherwise occupy, in whole or in part, any building unless, after consultation with the head of such department, agency, or instrumentality and the State licensing agency, it is determined by the Secretary that (A) such building includes a satisfactory site or sites for the location and operation of a vending facility by a blind person, or (B) if a building is to be constructed, substantially altered, or renovated, or in the case of a building that is already occupied on such date by such department, agency, or instrumentality, is to be substantially altered or renovated for use by such department, agency, or instrumentality, the design for such construction, substantial alteration, or renovation includes a satisfactory site or sites for the location and operation of a vending facility by a blind person. Each such department, agency, or instrumentality shall provide notice to the appropriate State licensing agency of its plans for occupation, acquisition, renovation, or relocation of a building adequate to permit such State agency to determine whether such building includes a satisfactory site or sites for a vending facility.

(2) The provisions of paragraph (1) shall not apply (A) when the Secretary and the State licensing agency determine that the number of people using the property is or will be insufficient to support a vending facility, or (B) to any privately owned building, any part of which is leased by any department, agency, or instrumentality of the United States and in which, (i) prior to the execution of such lease, the lessor or any of his tenants had in operation a restaurant or other food facility in a part of the building not included in such lease, and (ii) the operation of such a vending facility by a blind person would be in proximate and substantial direct competition with such restaurant or other food facility except that each such department, agency, and instrumentality shall make every effort to lease property in privately owned buildings capable of accommodating a vending facility.

(3) For the purposes of this subsection, the term "satisfactory site" means an area determined by the Secretary to have sufficient space, electrical and plumbing outlets, and such other facilities as the Secretary may by regulation prescribe, for the location and operation of a vending facility by a blind person.

(e) In any State having an approved plan for vocational rehabilitation pursuant to the Vocational Rehabilitation Act or the Rehabilitation Act of 1973, the State licensing agency designated under paragraph (5) of subsection (a) of this section shall be the State agency designated under section 721(a)(1)(A) of Title 29. (As amended Dec. 7, 1974, Pub. L. 93–516, title II, § 203, 88 Stat. 1623.)

REFERENCES IN TEXT

The Vocational Rehabilitation Act, referred to in subsec. (e), refers to act June 2, 1920, ch. 219, 41 Stat. 735, as amended, which was classified to section 31 et seq. of Title 29, Labor, and was repealed by section 500(a) of Pub. L. 93–112. See section 701 et seq. of Title 29.

The Rehabilitation Act of 1973, referred to in subsec. (e), refers to Pub. L. 93–112, which is classified to section 701 et seq. of Title 29.

AMENDMENTS

1974—Subsec. (a)(1). Pub. L. 93–516, § 203(a)(1), added subsec. (a)(1). Former subsec. (a)(1) redesignated (a)(2).

Subsec. (a)(2). Pub. L. 93–516, § 203(a)(1), (2), redesignated former subsec. (a)(1) as (a)(2), and in subsec. (a)(2) as so redesignated, substituted "Through the Commissioner, make annual surveys of concessions vending opportunities for blind persons on Federal and other property in the United States, particularly with respect to

Federal property under the control of the General Services Administration, the Department of Defense, and the United States Postal Service" for "Make surveys of concession-stand opportunities for blind persons on Federal and other property in the United States". Former subsec. (a)(2) redesignated (a)(3).

Subsec. (a)(3). Pub. L. 93–516, § 203(a)(1), redesignated former subsec. (a)(2) as (a)(3). Former subsec. (a)(3) redesignated (a)(4).

Subsec. (a)(4). Pub. L. 93–516, § 203(a)(1), redesignated former subsec. (a)(3) as (a)(4). Former subsec. (a)(4) redesignated (a)(5).

Subsec. (a)(5). Pub. L. 93–516, § 203(a)(1), (3), redesignated former subsec. (a)(4) as (a)(5), and in subsec. (a)(5) as so redesignated, substituted "State agency for the blind in each State, or in any State in which there is no such agency, some other public agency to issue licenses to blind persons who are citizens of the United States for the operating of vending facilities" for "State commission for the blind in each State, or, in any State in which there is no such commission, some other public agency to issue licenses to blind persons who are citizens of the United States and at least twenty-one years of age for the operating of vending stands", and "foods, beverages, and other articles or services dispensed automatically or manually and prepared on or off the premises in accordance with all applicable health laws, as determined by the State licensing agency, and including the vending or exchange of chances for any lottery authorized by State law and conducted by an agency of a State" for "articles dispensed automatically or in containers or wrapping in which they are placed before receipt by the vending stand, and such other articles as may be approved for each property by the department or agency in control of the maintenance, operation, and protection thereof and the State licensing agency in accordance with the regulations prescribed pursuant to section 107 of this title", and struck out the proviso that effective four years after the enactment of the Vocational Rehabiliation Amendments of 1954, in states having an approved plan for vocational rehabilitation pursuant to the Vocational Rehabilitation Act, the licensing agency to be designated hereunder shall be the state agency designated pursuant to section 35(a)(1) of Title 29 as the sole agency with respect to vocational rehabilitation of the blind, and that prior to such time, no license shall be granted except upon certification by a vocational rehabilitation agency that the individual is qualified to operate a vending stand.

Subsec. (a)(6). Pub. L. 93–516, § 203(a)(1), (4), redesignated former subsec. (a)(5) as (a)(6), and in subsec. (a)(6) as so redesignated, substantially reenacted existing provisions in cl. (B), and added cl. (A) and provisions preceding cl. (A).

Subsec. (b). Pub. L. 93–516, § 203(b), substituted "operation of a vending facility" for "operation of a vending stand", struck out one year residency requirement for giving preference, and in provisions relating to qualifications of applicants, struck out "but are able, in spite of such infirmity, to operate such stands".

Subsec. (c). Pub. L. 93–516, § 203(c), substituted "facility" for "stand" in three places.

Subsecs. (d), (e). Pub. L. 93–516, § 203(d), added subsecs. (d) and (e).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 107b–2, 107e of this title.

§ 107b. Application for designation as State licensing agency; cooperation with Secretary; furnishing initial stock.

A State agency for the blind or other State agency desiring to be designated as the licensing agency shall, with the approval of the chief executive of the State, make application to the Secretary and agree—

(1) to cooperate with the Secretary in carrying out the purpose of this chapter;

(2) to provide for each licensed blind person such vending facility equipment, and adequate initial stock of suitable articles to be vended therefrom, as may be necessary: *Provided, however,* That such equipment and stock may be owned by the licensing agency for use of the blind, or by the blind individual to whom the license is issued: *And provided further,* That if ownership of such equipment is vested in the blind licensee, (A) the State licensing agency shall retain a first option to repurchase such equipment and (B) in the event such individual dies or for any other reason ceases to be a licensee or transfers to another vending facility, ownership of such equipment shall become vested in the State licensing agency (for transfer to a successor licensee) subject to an obligation on the part of the State licensing agency to pay to such individual (or to his estate) the fair value of his interest therein as later determined in accordance with regulations of the State licensing agency and after opportunity for a fair hearing;

(3) that if any funds are set aside, or caused to be set aside, from the net proceeds of the operation of the vending facilities such funds shall be set aside, or caused to be set aside, only to the extent necessary for and may be used only for the purposes of (A) maintenance and replacement of equipment; (B) the purchase of new equipment; (C) management services; (D) assuring a fair minimum return to operators of vending facilities; and (E) retirement or pension funds, health insurance contributions, and provision for paid sick leave and vacation time, if it is determined by a majority vote of blind licensees licensed by such State agency, after such agency provides to each such licensee full information on all matters relevant to such proposed program, that funds under this paragraph shall be set aside for such purposes: *Provided, however,* That in no event shall the amount of such funds to be set aside from the net proceeds of any vending facility exceed a reasonable amount which shall be determined by the Secretary;

* * * * *

(6) to provide to any blind licensee dissatisfied with any action arising from the operation or administration of the vending facility program an opportunity for a fair hearing, and to agree to submit the grievances of any blind licensee not otherwise resolved by such hearing to arbitration as provided in section 107d–1 of this title.

(As amended Dec. 7, 1974, Pub. L. 93–516, title II, § 204, 88 Stat. 1625.)

AMENDMENTS

1974—Pub. L. 93–516, § 204(a)(1), substituted "A State agency" for "A State commission" in provisions preceding par. (1).

Par. (2). Pub. L. 93–516, § 204(a)(2), substituted "vending facility" for "vending stand" in two places.

Par. (3). Pub. L. 93–516, § 204(a)(2), (b), (c), in provisions preceding subpar. (A), substituted "the net proceeds of the operation of the vending facilities" for "the proceeds of the operation of the vending stands", in subpar. (D), substituted "vending facilities" for "vending stands", and "the net proceeds of any vending facility" for "the proceeds of any vending stand", and added subpar. (E).

Par. (6). Pub. L. 93–516, § 204(a)(3), substituted "vending facility program an opportunity for a fair hearing, and to agree to submit the grievances of any blind licensee not otherwise resolved by such hearing to arbitration as provided in section 107d–1 of this title" for "vending stand program an opportunity for a fair hearing".

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 107a, 107b–2, 107d–1, 107d–3 of this title.

§ 107b–1. Access to information with State licensing agencies; election and responsibilities of Committee of Blind Vendors.

In addition to other requirements imposed in this title and in this chapter upon State licensing agencies, such agencies shall—

(1) provide to each blind licensee access to all relevant financial data, including quarterly and annual financial reports, on the operation of the State vending facility program;

(2) conduct the biennial election of a Committee of Blind Vendors who shall be fully representative of all blind licensees in the State program, and

(3) insure that such committee's responsibilities include (A) participation, with the State agency, in major administrative decisions and policy and program development, (B) receiving grievances of blind licensees and serving as advocates for such licensees, (C) participation, with the State agency, in the development and administration of a transfer and promotion system for blind licensees, (D) participation, with the State agency, in developing training and retraining programs, and (E) sponsorship, with the assistance of the State agency, of meetings and instructional conferences for blind licensees.

(Pub. L. 93–516, title II, § 209, Dec. 7, 1974, 88 Stat. 1630.)

REFERENCES IN TEXT

This title, referred to in text, is title II of Pub. L. 93–516, popularly known as "Randolph-Sheppard Act Amendments of 1974". For its distribution in the Code, see Short Title of 1974 Amendment note under section 107 of this title.

CODIFICATION

Section was not enacted as part of the Randolph-Sheppard Vending Stand Act, which comprises this chapter.

§ 107b–2. Standards, studies, and reports.

(a) The Secretary, through the Commissioner, after a period of study not to exceed six months following December 7, 1974, and after full consultation with, and full consideration of the views of, blind vendors and State licensing agencies, shall promulgate national standards for funds set aside pursuant to section 107b(3) of this title which include maximum and minimum amounts for such funds, and appropriate contributions, if any, to such funds by blind vendors.

(b)(1) The Secretary shall study the feasibility and desirability of establishing a nationally administered retirement, pension, and health insurance system for blind licensees, and such study shall include, but not be limited to, consideration of eligibility standards, amounts and sources of contributions, number of potential participants, total costs, and alternative forms of administration, including trust funds and revolving funds.

(2) The Secretary shall, within one year following December 7, 1974, complete the study required by paragraph (1) of this subsection and report his findings, together with any recommendations, to the President and the Congress.

(c) The Secretary shall, not later than September 30, 1975, complete an evaluation of the method of assigning vending machine income under section 107d–3(b)(1) of this title, including its effect on the growth of the program authorized by this chapter, and on the operation of nonappropriated fund activities, and within thirty days thereafter he shall report his findings, together with any recommendations, to the appropriate committees of the Congress.

(d) Each State licensing agency shall, within one year following December 7, 1974, submit to the Secretary a report, with appropriate supporting documentation, which shows the actions taken by such agency to meet the requirements of section 107a(a)(1) of this title. (Pub. L. 93–516, title II, § 210, Dec. 7, 1974, 88 Stat. 1630.)

CODIFICATION

Section was not enacted as part of the Randolph-Sheppard Vending Stand Act, which comprises this chapter.

§ 107b–3. Audit of nonappropriated fund activities.

The Comptroller General is authorized to conduct regular and periodic audits of all nonappropriated fund activities which receive income from vending machines on Federal property, under such rules and regulations as he may prescribe. In the conduct of such audits he and his duly authorized representatives shall have access to any relevant books, documents, papers, accounts, and records of such activities as he deems necessary. (Pub. L. 93–516, title II, § 211, Dec. 7, 1974, 88 Stat. 1630.)

CODIFICATION

Section was not enacted as part of the Randolph-Sheppard Vending Stand Act, which comprises this chapter.

§ 107c. Repealed. Pub. L. 93–516, title II, § 205, Dec. 7, 1974, 88 Stat. 1626.

Section, act June 20, 1936, ch. 638, § 4, 49 Stat. 1560; 1946 Reorg. Plan No. 2, § 6, eff. July 16, 1946, 11 F.R. 7873, 60 Stat. 1095; 1953 Reorg. Plan No. 1, §§ 5, 8, eff. Apr. 11, 1953, 18 F.R. 2053, 67 Stat. 631, related to provisions authorizing the Secretary to cooperate with State boards for rehabilitation of handicapped persons, established by the several States pursuant to former sections 31 to 42b of Title 29, Labor, as amended and supplemented, in carrying out the provisions of this chapter. See section 701 et seq. of Title 29.

§ 107d. Expenditures for personal services, rent, printing, etc.; preference to blind persons.

* * * * *

(b) The Secretary shall, in employing such additional personnel as may be necessary, give preference to blind persons who are capable of discharging the required duties. (June 20, 1936, ch. 638, § 4, formerly § 5, 49 Stat. 1560, amended 1946 Reorg. Plan No. 2, § 6, eff. July 16, 1946, 11 F.R. 7873, 60 Stat. 1095; 1953 Reorg. Plan No. 1, §§ 5, 8, eff. Apr. 11, 1953, 18 F.R. 2053, 67 Stat. 631; renumbered and amended Dec. 7, 1974, Pub. L. 93–516, title II, §§ 206, 208(d), 88 Stat. 1626, 1629.)

AMENDMENTS

1974—Subsec. (b). Pub. L. 93–516, § 208(d), struck out requirement that at least 50 percent of the additonal personnel be blind persons.

§ 107d–1. Grievances of blind licensees; hearing and arbitration; noncompliance by federal departments and agencies; complaints by state licensing agencies; arbitration.

(a) Any blind licensee who is dissatisfied with any action arising from the operation or administration of the vending facility program may submit to a State licensing agency a request for a full evidentiary hearing, which shall be provided by such agency in accordance with section 107b(6) of this title. If such blind licensee is dissatisfied with any action taken or decision rendered as a result of such hearing, he may file a complaint with the Secretary who shall convene a panel to arbitrate the dispute pursuant to section 107d–2 of this title, and the decision of such panel shall be final and binding on the parties except as otherwise provided in this chapter.

(b) Whenever any State licensing agency determines that any department, agency, or instrumentality of the United States that has control of the maintenance, operation, and protection of Federal property is failing to comply with the provisions of this chapter or any regulations issued thereunder (including a limitation on the placement or operation of a vending facility as described in section 107(b) of this title and the Secretary's determination thereon) such licensing agency may file a complaint with the Secretary who shall convene a panel to arbitrate the dispute pursuant to section 107d–2 of this title, and the decision of such panel shall be final and binding on the parties except as otherwise provided in this chapter. (June 20, 1936, ch. 638, § 5, as added Dec. 7, 1974, Pub. L. 93–516, title II, § 206, 88 Stat. 1626.)

PRIOR PROVISIONS

A prior section 5 of act of June 20, 1936, which was classified to section 107d of this title was renumbered section 4 by Pub. L. 93–516, and is classified to section 107d of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 107b, 107d–2 of this title.

§ 107d–2. Arbitration.

(a) Notice and hearing.

Upon receipt of a complaint filed under section 107d–1 of this title, the Secretary shall convene an ad hoc arbitration panel as provided in subsection (b) of this section. Such panel shall, in accordance with the provisions of subchapter II of chapter 5 of Title 5, give notice, conduct a hearing, and render its decision which shall be subject to appeal and review as a final agency action for purposes of chapter 7 of such Title 5.

(b) Composition of panel; designation of chairman; termination of violations.

(1) The arbitration panel convened by the Secretary to hear grievances of blind licensees shall be composed of three members appointed as follows:

(A) one individual designated by the State licensing agency;

(B) one individual designated by the blind licensee; and

(C) one individual, not employed by the State licensing agency or, where appropriate, its parent agency, who shall serve as chairman, jointly designated by the members appointed under subparagraphs (A) and (B).

If any party fails to designate a member under subparagraph (1)(A), (B), or (C), the Secretary shall designate such member on behalf of such party.

(2) The arbitration panel convened by the Secretary to hear complaints filed by a State licensing agency shall be composed of three members appointed as follows:

(A) one individual, designated by the State licensing agency;

(B) one individual, designated by the head of the Federal department, agency, or instrumentality controlling the Federal property over which the dispute arose; and

(C) one individual, not employed by the Federal department, agency, or instrumentality controlling the Federal property over which the dispute arose, who shall serve as chairman, jointly designated by the members appointed under subparagraphs (A) and (B).

If any party fails to designate a member under subparagraph (2) (A), (B), or (C), the Secretary shall designate such member on behalf of such party. If the panel appointed pursuant to paragraph (2) finds that the acts or practices of any such department, agency, or instrumentality are in violation of this chapter, or any regulation issued thereunder, the head of any such department, agency, or instrumentality shall cause such acts or practices to be terminated promptly and shall take such other action as may be necessary to carry out the decision of the panel.

(c) Publication of decisions in Federal Register.

The decisions of a panel convened by the Secretary pursuant to this section shall be matters of public record and shall be published in the Federal Register.

(d) Payment of costs by the Secretary.

The Secretary shall pay all reasonable costs of arbitration under this section in accordance with a schedule of fees and expenses he shall publish in the Federal Register. (June 20, 1936, ch. 638, § 6, as added Dec. 7, 1974, Pub. L. 93–516, title II, § 206, 88 Stat. 1626.)

PRIOR PROVISIONS

A prior section 6 of act June 20, 1936, which was classified to section 107e of this title, was renumbered section 9 by Pub. L. 93–516, and is classified to section 107e of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 107d–1 of this title.

§ 107d–3. Vending machine income.

(a) Accrual to blind licensee and alternatively to state agency; ceiling on amount for individual licensee.

In accordance with the provisions of subsection (b) of this section, vending machine income obtained from the operation of vending machines on Federal property shall accrue (1) to the blind licensee operating a vending facility on such property, or (2) in

the event there is no blind licensee operating such facility on such property, to the State agency in whose State the Federal property is located, for the uses designated in subsection (c) of this section, except that with respect to income which accrues under clause (1) of this subsection, the Commissioner may prescribe regulations imposing a ceiling on income from such vending machines for an individual blind licensee. In the event such a ceiling is imposed, no blind licensee shall receive less vending machine income under such ceiling than he was receiving on January 1, 1974. No limitation shall be imposed on income from vending machines, combined to create a vending facility, which are maintained, serviced, or operated by a blind licensee. Any amounts received by a blind licensee that are in excess of the amount permitted to accrue to him under any ceiling imposed by the Commissioner shall be disbursed to the appropriate State agency under clause (2) of this subsection and shall be used by such agency in accordance with subsection (c) of this section.

(b) Direct competition between vending machine and vending facility; proportion of accrued income from such vending machines for individual licensee.

(1) After January 1, 1975, 100 per centum of all vending machine income from vending machines on Federal property which are in direct competition with a blind vending facility shall accrue as specified in subsection (a) of this section, "Direct competition" as used in this section means the existence of any vending machines or facilities operated on the same premises as a blind vending facility except that vending machines or facilities operated in areas serving employees the majority of whom normally do not have direct access to the blind vending facility shall not be considered in direct competition with the blind vending facility. After January 1, 1975, 50 per centum of all vending machine income from vending machines on Federal property which are not in direct competition with a blind vending facility shall accrue as specified in subsection (a) of this section, except that with respect to Federal property at which at least 50 per centum of the total hours worked on the premises occurs during periods other than normal working hours, 30 per centum of such income shall so accrue.

(2) The head of each department, agency, and instrumentality of the United States shall insure compliance with this section, with respect to buildings, installations, and facilities under his control, and shall be responsible for collection of, and accounting for, such vending machine income.

(c) Disposal of accrued vending machine income by state licensing agency.

All vending machine income which accrues to a State licensing agency pursuant to subsection (a) of this section shall be used to establish retirement or pension plans, for health insurance contributions, and for provision of paid sick leave and vacation time for blind licensees in such State, subject to a vote of blind licensees as provided under section 107b (3) (E) of this title. Any vending machine income remaining after application of the first sentence of this subsection shall be used for the purposes specified in sections 107b(3) (A), (B), (C), and (D) of this title, and any assessment charged to blind licensees by a State licensing agency shall be reduced pro rata in an amount equal to the total of such remaining vending machine income.

(d) Income from vending machines in certain locations excepted.

Subsections (a) and (b) (1) of this section shall not apply to income from vending machines within retail sales outlets under the control of exchange or ships' stores systems authorized by Title 10, or to income from vending machines operated by the Veterans Canteen Service, or to income from vending machines not in direct competition with a blind vending facility at individual locations, installations, or facilities on Federal property the total of which at such individual locations, installations, or facilities does not exceed $3,000 annually.

(e) Regulations establishing priority for operation of cafeterias.

The Secretary, through the Commissioner, shall prescribe regulations to establish a priority for the operation of cafeterias on Federal property by blind licensees when he determines, on an individual basis and after consultation with the head of the appropriate installation, that such operation can be provided at a reasonable cost with food of a high quality comparable to that currently provided to employees, whether by contract or otherwise.

(f) Existing arrangements more favorable to blind licensees unaffected.

This section shall not operate to preclude preexisting or future arrangements, or regulations of departments, agencies, or instrumentalities of the United States, under which blind licensees (1) receive a greater percentage or amount of vending machine income than that specified in subsection (b) (1) of this section, or (2) receive vending machine income from individual locations, installations, or facilities on Federal property the total of which at such individual locations, installations, or facilities does not exceed $3,000 annually.

(g) Regulations for compliance.

The Secretary shall take such action and promulgate such regulations as he deems necessary to assure compliance with this section. (June 20, 1936, ch. 638, § 7, as added Dec. 7, 1974, Pub. L. 93–516, title II, § 206, 88 Stat. 1627.)

PRIOR PROVISIONS

A prior section 7 of act June 20, 1936, which was classified to section 107e–1 of this title, was repealed by Pub. L. 93–516.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 107, 107b–2 of this title.

§ 107d–4. Training programs for maximum vocational potential for blind.

The Commissioner shall insure, through promulgation of appropriate regulations, that uniform and effective training programs, including on-the-job training, are provided for blind individuals, through services under the Rehabilitation Act of 1973. He shall further insure that State agencies provide programs for upward mobility (including further education and additional training or retraining for improved work opportunities) for all trainees under

this chapter, and that follow-along services are provided to such trainees to assure that their maxmum vocational potential is achieved. (June 20, 1936, ch. 638, § 8, as added Dec. 7, 1974, Pub. L. 93–516, title II, § 206, 88 Stat. 1628.)

REFERENCES IN TEXT

The Rehabilitation Act of 1973, referred to in text, is classified to section 701 et seq. of Title 29, Labor.

PRIOR PROVISIONS

A prior section 8 of act June 20, 1936, which was classified to section 107f of this title, was renumbered section 10 by Pub. L. 93–516.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 107a of this title.

§ 107e. Definitions.

As used in this chapter—

(1) "blind person" means a person whose central visual acuity does not exceed 20/200 in the better eye with correcting lenses or whose visual acuity, if better than 20/200, is accompanied by a limit to the field of vision in the better eye to such a degree that its widest diameter subtends an angle of no greater than twenty degrees. In determining whether an individual is blind, there shall be an examination by a physician skilled in diseases of the eye, or by an optometrist, whichever the individual shall select;

(2) "Commissioner" means the Commissioner of the Rehabilitation Services Administration;

(3) "Federal property" means any building, land, or other real property owned, leased, or occupied by any department, agency, or instrumentality of the United States (including the Department of Defense and the United States Postal Service), or any other instrumentality wholly owned by the United States, or by any department or agency of the District of Columbia or any territory or possession of the United States;

(4) "Secretary" means the Secretary of Health, Education, and Welfare;

(5) "State" means a State, territory, possession, Puerto Rico, or the District of Columbia;

(6) "United States" includes the several States, territories, and possessions of the United States, Puerto Rico, and the District of Columbia;

(7) "vending facility" means automatic vending machines, cafeterias, snack bars, cart services, shelters, counters, and such other appropriate auxiliary equipment as the Secretary may by regulation prescribe as being necessary for the sale of the articles or services described in section 107a (a) (5) of this title and which may be operated by blind licensees; and

(8) "vending machine income" means receipts (other than those of a blind licensee) from vending machine operations on Federal property, after cost of goods sold (including reasonable service and maintenance costs), where the machines are operated, serviced, or maintained by, or with the approval of, a department, agency, or instrumentality of the United States, or commissions paid (other than to a blind licensee) by a commercial vending concern which operates, services, and maintains vending machines on Federal property for, or with the approval of, a department, agency, or instrumentality of the United States.

(June 20, 1936, ch. 638, § 9, formerly § 6, 49 Stat. 1560, amended Aug. 3, 1954, ch. 655, § 4(f), 68 Stat. 664; renumbered and amended Dec. 7, 1974, Pub. L. 93–516, title II, §§ 206, 207, 88 Stat. 1626, 1628.)

AMENDMENTS

1974—Pub. L. 93–516, § 207, added definitions of "Commissioner", "vending facility", and "vending machine income", and in the definition of "blind person" substituted provisions that such person meant a person whose central visual acuity does not exceed 20/200 in the better eye with correcting lenses or whose visual acuity, if better than 20/200, is accompanied by a limit to the field of vision in the better eye to such a degree that its widest diameter subtends an angle of no greater than twenty degrees, and that in determining whether a person is blind, there shall be an examination by a physician skilled in diseases of the eye, or by an optometrist, whichever the individual shall select, for provisions that such person meant a person having not more than 10 per centum visual acuity in the better eye with correction and that such blindness shall be certified by a duly licensed ophthalmologist, in the definition of "United States" added reference to Puerto Rico, in the definition of "state" added reference to Puerto Rico, and in the definition of "Federal property" added reference to Department of Defense and United States Postal Service.

§ 107e–1. Repealed. Pub. L. 93–516, title II, § 205, Dec. 7, 1974, 88 Stat. 1626.

Section, act June 20, 1936, ch. 638, § 7, as added Aug. 3, 1954, ch. 655, § 4(g), 68 Stat. 664, related to designation and status of states acting as licensing agents before July 1, 1954.

§ 107f. Appropriations.

Section 8 of act June 20, 1936, ch. 638, 49 Stat. 1560, was renumbered section 10 by Pub. L. 93–516, title II, § 206, Dec. 7, 1974, 88 Stat. 1626.

Chapter 11.—NATIONAL ARBORETUM

Sec.

195. Gifts, bequests, or devises for benefit of National Arboretum; separate fund in the Treasury [New].

§ 191. Establishment; site; acquisition of land.

DELEGATION OF FUNCTIONS

Authority of the President under this section to transfer to the jurisdiction of the Secretary of Agriculture for the purposes of this chapter any land belonging to the United States within or adjacent to the District of Columbia located along the Anacostia River North of Benning Bridge delegated to the Administrator of General Services, see section 1(18) of Ex. Ord. No. 11609, July 22, 1971, 36 F.R. 13747, set out as a note under section 301 of Title 3, The President.

§ 195. Gifts, bequests, or devices for benefit of National Arboretum; separate fund in the Treasury.

Notwithstanding any other provision of law, the Secretary of Agriculture is authorized to accept, receive, hold, utilize, and administer on behalf of the United States gifts, bequests, or devises of real and personal property made for the benefit of the National Arboretum or for the carrying out of any of its functions. For the purposes of the Federal income, estate, and gift tax laws, property accepted under the authority of this section shall be considered as a gift, bequest, or devise to the United States. Any gift of money accepted pursuant to the authority granted in this section, or the net proceeds from the liquidation of any property so accepted, or the proceeds of any insurance on any gift property

not used for its restoration shall be deposited in the Treasury of the United States for credit to a separate fund and shall be disbursed upon order of the Secretary of Agriculture. (Pub. L. 94–129, Nov. 13, 1975, 89 Stat. 683.)

Chapter 13.—FINANCIAL ASSISTANCE TO LOCAL EDUCATIONAL AGENCIES

SUBCHAPTER II.—ASSISTANCE TO LOCAL EDUCATIONAL AGENCIES FOR THE EDUCATION OF CHILDREN OF LOW-INCOME FAMILIES

Sec.
241b–1. Authorization of appropriations; assistance of otherwise lower fiscal year allotment levels [New].

PART A.—BASIC GRANTS

Subpart 2.—State Operated Programs [New]

241c–1. Programs for handicapped children.
(a) State agencies eligible for grants.
(b) Amount of grants.
(c) Payments only for programs and projects for special educational needs; assurances to Commissioner.
(d) Participation in educational program of local education agency rather than State agency.
241c–2. Programs for migratory children.
(a) State agencies eligible for grants; applications; approval by Commissioner; notice and hearing prior to final disapproval; special arrangements with other agencies; period of childhood status; priority of migrants.
(b) Amount of grants; allocation of excess amounts; use of statistics made available by migrant student record transfer system or other system for determination of number of migrant children.
241c–3. Programs for neglected or delinquent children.
(a) State agencies eligible for grants.
(b) Amounts of grants.
(c) Payments only for programs and projects for special educational needs.
241c–4. Reservation of funds for territories; authorization of appropriations.
241c–5. Minimum payments for State operated programs.

PART C.—SPECIAL GRANTS

241d–11. Eligibility and maximum amount of special grants [New].
(a) Special grants for local educational agencies.
(b) Requirements for special grants; compilation of data.
(c) Amount of special grants; grant formula.
(d) Fiscal year State payments limitation.
(e) Fiscal year payments limitation.
(f) "State" and "children" defined.

PART D.—GENERAL PROVISIONS

241e–1. Participation of children enrolled in private schools [New].
(a) Special educational services and arrangements for children in public schools.
(b) (1) Waiver of requirement of local educational agency participation.
(2) Arrangements for services where local educational agency fails to provide for participation on equitable basis.
(3) Payment of cost of arranged services from appropriate allocations.
(4) (A) Final action of Commissioner; notice and hearing.
(B) Petition for review; transmittal of copy to Commissioner; record of proceedings.

Sec.
241e–1. Participation of children enrolled in private schools [New]—Continued
(C) Fact findings; conclusiveness of determinations; remand.
(D) Jurisdiction of court of appeals; review by Supreme Court.
241n. Allocation of funds within school district of local educational agency; racial or cultural discrimination prohibition; reports to Director of National Institute of Education [New].
241o. Program evaluation [New].
(a) Impact of programs and projects; contracts or other arrangements for independent evaluations; opinions of participants.
(b) Standards.
(c) Studies.
(d) Models; uniform procedures and criteria.
(e) Technical assistance.
(f) Models; objective criteria; techniques and methodology for producing data.
(g) Report to congressional committees; annual reports.
(h) Information gathering and dissemination systems.
(i) Limitation on fiscal year expenditures; sums available for surveys and studies.

SUBCHAPTER III.—FINANCIAL ASSISTANCE TO LOCAL EDUCATIONAL AGENCIES FOR EDUCATION OF INDIAN CHILDREN [NEW]

241aa. Congressional declaration of policy.
241bb. Grants to local educational agencies.
(a) Entitlement; computation; average per pupil expenditure.
(b) Non-local educational agencies.
241cc. Uses of Federal funds.
241dd. Applications for grants; conditions for approval; reports; amendments.
241ee. Payments; limitations.
241ff. Adjustments where necessitated by appropriations.

SUBCHAPTER IV.—GENERAL

246. State equalization plans; assistance to States [New].
(a) Reimbursement to States; submittal of plans to Commissioner; statement of purpose; guidelines: publication and republication in Federal Register, submittal to President of Senate and Speaker of House; new guidelines; resolution of disapproval.
(b) Guidelines; reasons for State rejection.
(c) Reimbursement to States; limitation; "State" defined.

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in section 1232a of this title; title 14 section 657; title 43 section 1620.

SUBCHAPTER I.—ASSISTANCE FOR LOCAL EDUCATIONAL AGENCIES IN AREAS AFFECTED BY FEDERAL ACTIVITY

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in section 244 of this title.

§ 237. Federal acquisition of property within school district as financial burden; Federal contributions; property excluded; effect of school district consolidations.

(a) Where the Commissioner, after consultation with any local educational agency and with the appropriate State educational agency, determines for any fiscal year ending prior to July 1, 1978—

* * * * *

(As amended Aug. 21, 1974, Pub. L. 93–380, title III, § 303(a)(1), 88 Stat. 522.)

AMENDMENTS

1974—Subsec. (a). Pub. L. 93-380 substituted "1978" for "1973".

EFFECTIVE DATE OF 1974 AMENDMENT

Section 303(b) of Pub. L. 93-380 provided that: "The amendments made by this section [to subsec. (a) of this section and sections 239(a) and 241-1(a)(1) (A), (B) of this title] shall be effective on and after July 1, 1973."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 240 of this title.

§ 238. Payments to local school agencies.

(a) Children of persons who reside and work on Federal property; parent in uniformed services; residents of Indian lands.

For the purpose of computing the amount to which a local educational agency is entitled under this section for any fiscal year, the Commissioner shall determine the number of children who were in average daily attendance at the schools of such agency, and for whom such agency provided free public education, during such fiscal year, and who, while in attendance at such schools, resided on Federal property and—

(1) did so with a parent employed on Federal property situated (A) in whole or in part in the county in which the school district of such agency is located, or (B) if not in such county, in whole or in part in the same State as the school district of such agency; or

(2) had a parent who was on active duty in the uniformed services (as defined in section 101 of Title 37).

In making a determination under clause (2) of the preceding sentence with respect to a local educational agency for any fiscal year, the Commissioner shall include the number of children who were in average daily attendance at the schools of such agency, and for whom such agency provided free public education, during such year, and who, while in attendance at such schools, resided on Indian lands, as described in clause (A) of section 244(1) of this title.

(b) Children of persons who reside or work on Federal property, who are on active duty in uniform service, or who are refugees.

For the purpose of computing the amount to which a local educational agency is entitled under this section for any fiscal year ending prior to July 1, 1978, the Commissioner shall, in addition to any determination made with respect to such agency under subsection (a) of this section, determine the number of children (other than children with respect to whom a determination is made for such fiscal year under subsection (a) of this section) who were in average daily attendance at the schools of such agency, and for whom such agency provided free public education, during such fiscal year and who, while in attendance at such schools, either—

(1) resided on Federal property, or

(2) resided with a parent employed on Federal property situated (A) in whole or in part in the county in which the school district of such agency is located, or (B) if not in such county, in whole or in part in the same State as the school district of such agency, or

(3) had a parent who was on active duty in the uniformed services (as defined in section 101 of Title 37).

For such purpose, with respect to a local educational agency, in the case of any fiscal year ending prior to July 1, 1978, the Commissioner shall also determine the number of children (other than children to whom subsection (a) of this section or the preceding sentence applies) who were in average daily attendance at the schools of such agency and for whom such agency provided free public education, during such fiscal year, and who, while in attendance at such schools resided with a parent who was, at any time during the three-year period immediately preceding the beginning of the fiscal year for which the determination is made, a refugee who meets the requirements of clauses (A) and (B) of section 2601(b)(3) of Title 22, except that the Commissioner shall not include in his determination under this sentence for any fiscal year any child with respect to whose education a payment was made under section 2601(b)(4) of Title 22.

(c) Eligibility for payments; waiver of paragraph (1) (B) requirement.

(1) Except as is provided in paragraph (2), no local educational agency shall be entitled to receive a payment for any fiscal year with respect to a number of children determined under subsection (a) and subsection (b) of this section, unless the number of children so determined with respect to such agency amounts to—

(A) at least four hundred such children; or

(B) a number of such children which equals at least 3 per centum of the total number of children who were in average daily attendance, during such year, at the schools of such agency and for whom such agency provided free public education;

whichever is the lesser.

(2)(A)(i) Clause (B) of paragraph (1) shall not operate to make any local educational agency eligible for a payment under this section for any fiscal year unless the number of children with respect to whom determination was made under subsections (a) and (b) of this section respecting such agency for that fiscal year is at least ten.

(ii) If a local educational agency is eligible for a payment for any fiscal year by the operation of clause (B) of paragraph (1), it shall continue to be so eligible for the two succeeding fiscal years even if such agency fails to meet the requirement of such clause (B) during such succeeding fiscal years, except that the number of children determined for the second such succeeding fiscal year with respect to such agency for the purpose of any clause in paragraph (1) of subsection (d) of this section shall not exceed 50 per centum of the number of children determined with respect to such agency for the purpose of that clause for the last fiscal year during which such agency was so eligible.

(iii) If the Commissioner determines with respect to any local educational agency for any fiscal year that—

(I) such agency does not meet the requirement of clause (B) of paragraph (1); and

(II) the application of such requirement, because of exceptional circumstances, would defeat the purposes of this subchapter;

the Commissioner is authorized to waive such requirement with respect to such agency.

(B) No local educational agency shall be entitled to receive a payment for any fiscal year with respect to a number of children determined under the second sentence of subsection (b) of this section unless the number of children so determined constitutes at least 20 per centum of the total number of children who were in average daily attendance at the schools of such agency and for whom such agency, during such fiscal year, provided free public education.

(d) Amount of payments; special education programs, entitlement; criteria; local contribution rate; formula; special determination for territories; "handicapped children", "State", and "average per pupil expenditure" defined.

(1) Except as is provided in paragraph (2), the amount to which a local educational agency shall be entitled under this section for any fiscal year shall be—

(A) in the case of any local educational agency with respect to which the number of children determined for such fiscal year under subsection (a) of this section amounts to at least 25 per centum of the total number of children who were in average daily attendance at the schools of such agency during such fiscal year and for whom such agency provided free public education, an amount equal to 100 per centum of the local contribution rate multiplied by the number of children determined under such subsection plus the sum of the products obtained with respect to such agency under clauses (B)(iii), (B)(iv), and (B)(v); and

(B) in any other case, an amount equal to the sum of—

(i) the product obtained by multiplying 100 per centum of the local contribution rate by the number of children determined with respect to such agency for such fiscal year under clause (2) of subsection (a) of this section,

(ii) the product obtained by multiplying 90 per centum of the local contribution rate by the number of children determined with respect to such agency for such fiscal year under clause (1) of subsection (a) of this section,

(iii) the product obtained by multiplying 50 per centum of the local contribution rate by the number of children determined with respect to such agency for such fiscal year under clause (3) of subsection (b) of this section,

(iv) the product obtained by multiplying 45 per centum of the local contribution rate by the number of children determined with respect to such agency for such fiscal year under clauses (1) and (2)(A) of subsection (b) of this section, and

(v) the product obtained by multiplying 40 per centum of the local contribution rate by the number of children determined with respect to such agency for such fiscal year under clause (2)(B) of subsection (b) of this section.

(2)(A) Not later than December 1 during each fiscal year beginning after June 30, 1977, the Commissioner shall, except as is provided in clause (iii) in the third sentence of this subparagraph, determine the total number of children with respect to whom determinations are made under subsection (b) of this section for all local educational agencies making application for payments under this section which meet the eligibility requirements set forth in subsection (c) of this section. The Commissioner shall determine the percentage which such number constitutes of the total number of children who were in average daily attendance at the schools of such agencies during such fiscal year and for whom such agencies provided free public education. In calculating the products under clauses (B)(iii), (B)(iv), and (B)(v) of paragraph (1), with respect to any local educational agency for any fiscal year, the Commissioner shall reduce the number of children with respect to whom a determination is made under subsection (b) of this section by a number equal to one-half of the number which the percentage determined under the preceding sentence constitutes of the total number of children with respect to whom such a determination is made and who were in average daily attendance at the schools of such agency during such fiscal year and for whom such agency provided free public education, except that—

(i) such percentage shall not exceed 4 per centum;

(ii) the number reduced shall not exceed three hundred; and

(iii) this subparagraph shall not apply to any local educational agency (I) with respect to which the number of children determined under subsection (b) of this section for any fiscal year amounts to at least 10 per centum of the total number of children who were in average daily attendance at the schools of such agency during such fiscal year and for whom such agency provided free public education, or (II) during any fiscal year in which such agency receives more than 25 per centum of the funds for its current expenditures from payments under this section.

In determining the total number of children who were in average daily attendance at the schools of an agency during any fiscal year under clause (iii)(I) in the preceding sentence, the number of children in such schools with respect to whom a determination is made under subsection (a) of this section for such year shall not be considered.

(B) If the Commissioner determines that—

(i) the amount computed under paragraph (1), as is otherwise provided in this subsection with respect to any local educational agency for any fiscal year, together with the funds available to such agency from State and local sources and from other sections of this subchapter, is less than the amount necessary to enable such agency to provide a level of education equivalent to that maintained in the school districts of the State which are generally comparable to the school district of such agency;

(ii) such agency is making a reasonable tax effort and exercising due diligence in availing itself of State and other financial assistance;

(iii) not less than 50 per centum of the total number of children who were in average daily attendance at the schools of such agency during

such fiscal year and for whom such agency provided free public education were, during such fiscal year, determined under either subsection (a) or clause (1) of subsection (b) of this section, or both; and

(iv) the eligibility of such agency under State law for State aid with respect to free public education of children residing on Federal property, and the amount of such aid, are determined on a basis no less favorable to such agency than the basis used in determining the eligibility of local educational agencies for State aid, and the amount thereof, with respect to the free public education of other children in the State;

the Commissioner is authorized, to increase the amount computed under paragraph (1) with respect to such agency for such fiscal year to the extent necessary to enable such agency to provide a level of education equivalent to that maintained in such comparable school districts. The Commissioner shall not, under the preceding sentence, increase the amount computed under paragraph (1) with respect to any local educational agency for any fiscal year to an amount which exceeds the product of—

(I) the amount the Commissioner determines to be the cost per pupil of providing a level of education maintained in such comparable school districts during such fiscal year,

multiplied by—

(II) the number of children determined with respect to such agency for such year under either subsection (a) or clause (1) of subsection (b) of this section, or both,

minus the amount of State aid which the Commissioner determines to be available with respect to such children for the fiscal year for which the computation is being made.

(C) (i) The amount of the entitlement of any local educational agency under this section for any fiscal year with respect to handicapped children and children with specific learning disabilities for whom a determination is made under subsection (a) (2) or (b) (3) of this section and for whom such local educational agency is providing a program designed to meet the special educational and related needs of such children shall be the amount determined under paragraph (1) with respect to such children for such fiscal year multiplied by 150 per centum.

(ii) For the purposes of division (i), programs designed to meet the special educational and related needs of such children shall be consistent with criteria established under division (iii).

(iii) The Commissioner shall by regulation establish criteria for assuring that programs (including preschool programs) provided by local educational agencies for children with respect to whom this subparagraph applies are of sufficient size, scope, and quality (taking into consideration the special educational needs of such children) as to give reasonable promise of substantial progress toward meeting those needs, and in the implementation of such regulations the Commissioner shall consult with persons in charge of special education programs for handicapped children in the educational agency of the State in which such local educational agency is located.

(iv) For the purpose of this subparagraph the term "handicapped children" has the same meaning as specified in section 1401(1) of this title and the term "children with specific learning disabilities" has the same meaning as specified in section 1401 (15) of this title.

(3) (A) Except as is provided in subparagraph (B), in order to compute the local contribution rate for a local educational agency for any fiscal year, the Commissioner, after consulting with the State educational agency of the State in which the local educational agency is located and with the local educational agency, shall determine which school districts within such State are generally comparable to the school district of the local educational agency for which the computation is being made. The local contribution rate for such agency shall be the quotient of—

(i) the aggregate current expenditures, during the second fiscal year preceding the fiscal year for which the computation is made, which the local educational agencies of such comparable school districts derived from local sources,

divided by—

(ii) the aggregate number of children in average daily attendance for whom such agency provided free public education during such second preceding fiscal year.

(B) (i) The local contribution rate for a local educational agency in any State shall not be less than—

(I) 50 per centum of the average per pupil expenditure in such State, or

(II) 50 per centum of such expenditures in all the States,

whichever is greater, except that clause (II) shall not operate in such a manner as to make the local contribution rate for any local educational agency in any State exceed an amount equal to the average per pupil expenditure in such State.

(ii) If the current expenditures in those school districts which the Commissioner has determined to be generally comparable to the school district of the local educational agency for which a computation is made under subparagraph (A) are not reasonably comparable because of unusual geographical factors which affect the current expenditures necessary to maintain, in the school district of such agency, a level of education equivalent to that maintained in such other school districts, the Commissioner is authorized to increase the local contribution rate for such agency by such an amount which he determines will compensate such agency for the increase in current expenditures necessitated by such unusual geographical factors.

(iii) The local contribution rate for any local educational agency in—

(I) Puerto Rico, Wake Island, Guam, American Samoa, or the Virgin Islands, or

(II) any State in which a substantial proportion of the land is in unorganized territory, or

(III) any State in which there is only one local education agency,

shall be determined for any fiscal year by the Commissioner in accordance with policies and principles which will best achieve the purposes of this section

and which are consistent with the policies and principles provided in this paragraph for determining local contribution rates in States where it is possible to determine generally comparable school districts.

(C) For the purposes of this paragraph—

(i) the term "State" does not include Puerto Rico, Wake Island, Guam, American Samoa, or the Virgin Islands; and

(ii) the "average per pupil expenditure" in a State shall be (I) the aggregate current expenditures, during the second fiscal year preceding the fiscal year for which the computation is made of all local educational agencies in the State, divided by (II) the aggregate number of children in average daily attendance for whom such agencies provide free public education during such second preceding fiscal year.

(e) Adjustment for certain decreases in Federal activities.

Whenever the Commissioner determines that—

(1) for any fiscal year, the number of children determined with respect to any local educational agency under subsections (a) and (b) of this section is less than 90 per centum of the number so determined with respect to such agency during the preceding fiscal year;

(2) there has been a decrease or cessation of Federal activities within the State in which such agency is located; and

(3) such decrease or cessation has resulted in a substantial decrease in the number of children determined under subsections (a) and (b) of this section with respect to such agency for such fiscal year;

the amount to which such agency is entitled for such fiscal year and for any of the three succeeding fiscal years shall not be less than 90 per centum of the amount to which such agency was so entitled for the preceding fiscal year. That part of any entitlement of any local educational agency which is in excess of the amount which such entitlement would be without the operation of the preceding sentence shall be deemed to be attributable to determinations of children with respect to such agency under subsection (b)(2)(A) of this section.

(f) Determinations on basis of estimates.

Determinations with respect to a number of children by the Commissioner under this section for any fiscal year shall be made, whenever actual satisfactory data are not available, on the basis of estimates. No such determination shall operate, because of an underestimate, to deprive any local educational agency of its entitlement to any payment (or the amount thereof) under this section to which such agency would be entitled had such determination been made on the basis of accurate data. (As amended Aug. 21, 1974, Pub. L. 93–380, title III, §§ 304(a)(1), (b)(1), 305(a)(1), 88 Stat. 522, 523.)

AMENDMENTS

1974—Subsec. (a). Pub. L. 93–380, § 305(a)(1), inserted in par. (1) "(A) in whole or in part in the county in which the school district of such agency is located, or (B) if not in such county," preceding "in whole or in part in the same State as the school district of such agency", deleted following such phrase "or situated within reasonable commuting distance from the school district of such agency", substituted "section 101 of Title 37" for "section 102 of the Career Compensation Act of 1949", and added provision for inclusion of children, in average daily attendance at the agency schools, residing on Indian lands.

Subsec. (b). Pub. L. 93–380, § 305(a)(1), in revising the provisions, among other changes, substituted "1978" for "1973", "the Commissioner shall, in addition to any determination made with respect to such agency under subsection (a) of this section, determine the number of children (other than children with respect to whom a determination is made for such fiscal year under subsection (a) of this section)," for "the Commissioner shall also determine the number of children (other than children to whom subsection (a) of this section applies)", "section 101 of Title 37" for "section 102 of the Career Compensation Act of 1949", and "(other than children to whom subsection (a) of this section or the preceding sentence applies)" for "other than children to whom subsection (a) of this section or any other provision of this subsection applies", inserted in item (2) "(A) in whole or in part in the county in which the school district of such agency is located, or (B) if not in such county," preceding "in whole or part", substituted following "same State" "as the school district of such agency" for "as such agency or situated within reasonable commuting distance from the school district of such agency", and added exception clause.

Pub. L. 93–380, § 304(a)(1), substituted "1975" for "1973" wherever appearing.

Subsec. (c)(1). Pub. L. 93–380, § 305(a)(1), added a new par. (1), incorporating part of first sentence of former par. (2) which read: "No local educational agency shall be entitled to receive any payment for a fiscal year with respect to a number of children determined under subsection (a) or the first sentence of subsection (b) of this section, as the case may be, unless the number of children who were in average daily attendance during such year and to whom such subsection or such sentence applies—(A) is ten or more; and (B) amounts to, whichever is the lesser, four hundred such children, or a number of such children equal to 3 per centum or more of the total number of children who were in average daily attendance during such year and for whom such agency provided free public education. . . ." Former par. (1) provided: "The amount to which a local educational agency is entitled under this section for any fiscal year shall be an amount equal to (A) the local contribution rate (determined under subsection (d) of this section) multiplied by (B) the sum of the number of children determined under subsection (a) of this section and one-half of the number determined under subsection (b) of this section.", now covered in subsec. (d) of this section.

Subsec. (c)(2). Pub. L. 93–380, § 305(a)(1), substituted new provisions respecting eligibility for payments, incorporating in: subpar. (A)(i) former subpar. (A) requirement of ten or more; subpar. (A)(ii) former subpar. (B) provision reading "except that such 3 per centum requirement need not be met by such agency for any period of two fiscal years which follows a fiscal year during which such agency met such requirement and was entitled to payment under the provisions of this section, but the payment, under the provisions of this section to such agency for the second fiscal year of any such two-year period during which such requirement is not met, shall be reduced by 50 per centum of the amount thereof"; subpar. (A)(iii) former third sentence reading "Notwithstanding the provisions of clause (B) of this paragraph, the Commissioner may waive the 3 per centum condition of entitlement contained in such clause whenever, in his judgment, exceptional circumstances exist which would make the application of such condition inequitable and would defeat the purposes of this subchapter; and subpar. (B) former subsec. (c)(3) provisions described thereunder.

Subsec. (c)(3). Pub. L. 93–380, § 305(a)(1), deleted provisions stating "No local educational agency shall be entitled to receive any payment for a fiscal year with respect to a number of children determined under the second sentence of subsection (b) of this section unless

the number of children who were in average daily attendance to whom such sentence applies amounts to 20 per centum or more of the number of children who were in average daily attendance during such year and for whom such agency provided free public education, but in determining the number of such children under such second sentence no child shall be counted with respect to whose education a payment was made under section 2601(b)(4) of Title 22.", now covered in subsec. (c)(2)(B) of this section.

Subsec. (c)(4). Pub. L. 93–380, § 305(a)(1), deleted provisions of former par. (4)(A)–(D), respecting computation of amount of entitlement, now substantially incorporated in subsec. (d)(2)(B) of this section.

Subsec. (c)(5). Pub. L. 93–380, § 305(a)(1), deleted provisions stating "The determinations whether a local educational agency has met the requirements for eligibility under paragraphs (2)(B) and (4)(C) of this subsection for any fiscal year shall be made on the basis of estimates by the Commissioner made prior to the close of such year, except that an underestimate made by the Commissioner pursuant to the foregoing provisions of this sentence shall not operate to deprive an agency of its entitlement to any payments under this section to which it would be entitled had the estimate been accurate.", now incorporated in subsec. (f) of this section.

Subsec. (d). Pub. L. 93–380, § 305(a)(1), substituted new provisions respecting amount of payments, incorporating in: par. (1)(A) provisions of former subsec. (c)(1); par. (2)(B) provisions of former subsec. (c)(4); par. (3)(A) provisions of first, second, and fourth sentences of former subsec. (d); par. (3)(B)(ii) provisions of third sentence of former subsec. (d); par. (3)(B)(iii) provisions of sixth sentence of former subsec. (d); and par. (3)(C)(ii) provisions of fifth sentence of former subsec. (d) of this section.

Subsec. (e). Pub. L. 93–380, § 305(a)(1), substituted new provisions respecting adjustments for decreases in Federal activities for prior provisions which increased the amount the local educational agency would have been entitled but for the decrease in or cessation of Federal activities or the failure of such activities to occur, minus any reduction in current expenditures for such year effected by reason of such decrease or cessation of Federal activities or the failure of such activities to occur when (1) a local educational agency made preparations to provide during a fiscal year free public education for a certain number of children to whom subsec. (a) or (b) applied; (2) such preparations were reasonable in the light of information available at the time preparations were made; and such number was substantially reduced by reason of a decrease in or cessation of Federal activities or by reason of a failure of any of such activities to occur.

Subsec. (f). Pub. L. 93–380, § 305(a)(1), added subsec. (f), effective on and with respect to appropriations for fiscal years beginning on and after July 1, 1975. Former similar provisions were contained in subsec. (c)(5) of this section.

Pub. L. 93–380, § 304(b)(1), added provisions, effective on and after July 1, 1974, reading: "Notwithstanding any other provision of subchapter II of this chapter (including the provisions of section 240(c) of this title), a local educational agency with respect to which the number of children determined for any fiscal year under subsection (a) of this section amounts to at least 25 per centum of the total number of children who were in average daily attendance at the schools of such agency during such fiscal year and for whom such agency provided free public education, shall receive an amount equal to 100 per centum of the amounts to which such agency would be otherwise entitled under subsection (a) of this section."

EFFECTIVE DATE OF 1974 AMENDMENT

Section 305(a)(3) of Pub. L. 93–380 provided in part that: "The amendments made by paragraphs (1) and (2) of subsection (a) [amending this section and section 240 of this title] shall be effective on and with respect to appropriations for fiscal years beginning on and after July 1, 1975, and the amendments made by paragraph (3) of subsection (a) [to section 241—1(c) of this title] shall be effective upon enactment of this Act [Aug. 21, 1974]."

Section 304(a)(2) of Pub. L. 93–380 provided that: "The amendments made by this subsection [substituting "1975" for "1973" in subsec. (b)] shall be effective on and after July 1, 1973."

Section 304(b)(2) of Pub. L. 93–380 provided that: "The amendment made by this section [enacting subsec. (f) of this section] shall be effective on and after July 1, 1974."

PAYMENTS TO LOCAL SCHOOL AGENCIES FOR FISCAL YEARS 1975 THROUGH 1978; SEPARATION OF FUNDS FROM SUBCHAPTER II FUNDS; REPORTS TO CONGRESSIONAL COMMITTEES

Section 305(2) of Pub. L. 93–380 provided that:

"(A)(i) Notwithstanding any other provision of law unless enacted in express limitation of this subparagraph—

"(I) in the case of any local educational agency which is entitled to a payment under section 3 of the Act of September 30, 1950 (Public Law 874, Eighty-first Congress) [this section] for the fiscal year ending June 30, 1973, which constituted an amount equal to not less than 10 per centum of the current expenditures of such agency for such fiscal year, the amount paid to such agency pursuant to such Act of September 30, 1950 [this chapter], for any fiscal year beginning after June 30, 1974, and ending prior to July 1, 1978, on the basis of the entitlement of that agency under such section 3 [this section], shall not be less than 90 per centum of the amount paid to such agency on the basis of such entitlement for the preceding fiscal year; and

"(II) in the case of any other local educational agency, the amount so paid during any fiscal year beginning after June 30, 1974, and ending prior to July 1, 1978, shall not be less than 80 per centum of the amount so paid for the preceding fiscal year.

In the case of any local educational agency which is eligible prior to July 1, 1975, for a payment under section 3 of the Act of September 30, 1950 (Public Law 874, Eighty-first Congress) [this section] by reason of the 3 per centum requirement in clause (B) of section 3(c)(2) of such Act [former subsec. (c)(2)(B) of this section], as in effect prior to the effective date of the amendment made by paragraph (1) of subsection (a) [see note for section 305(a)(3) of Pub. L. 93–380 under this section], but which fails to meet such requirement in any fiscal year ending prior to July 1, 1977, such agency shall continue to be eligible for a payment under such section 3 as then in effect [former section 238 of this title] for the two succeeding fiscal years, but the payment under such section [former section 238 of this title] during the second of such succeeding fiscal years shall not exceed 50 per centum of the amount of the payment such agency was entitled to receive during the most recent fiscal year in which it was so eligible by reason of such clause (B) [former subsec. (c)(2)(B) of this section].

"(ii) Funds appropriated for any fiscal year for making payments to local educational agencies pursuant to the Act of September 30, 1950 (Public Law 874, Eighty-first Congress) [this chapter], which are increased by reason of the provisions of division (i) shall, to the extent of any such increase, be separate from funds appropriated for such fiscal year for payments pursuant to title I of such Act [subchapter II of this chapter] which are not so increased. If, for any fiscal year, a law making appropriations for payments pursuant to such title I [subchapter II of this chapter] is enacted and such law makes no express provision for payments increased by division (i)—

"(I) all funds so appropriated shall be allocated and paid in accordance with section 5 of such Act of September 30, 1950 [section 240 of this title], and without regard for the provisions of division (i); and

"(II) not later than fifteen days after the enactment of such law, the Commissioner shall submit a report to the Committees on Appropriations and on Education and Labor of the House of Representatives and the Committees on Appropriations and Labor and Public Welfare of the Senate, which report shall contain a statement detailing the dollar amounts necessary to satisfy the requirements of division (i) and constitute a budget estimate within the meaning of section 201(a)(5) of the Act of June 10, 1921 (31 U.S.C. 11(a)(5)).

"(B) In the case of any local educational agency which experiences a decrease in the number of children determined by the Commissioner of Education under section 3 of the Act of September 30, 1950 (Public Law 874, Eighty-first Congress) [this section] of 10 per centum or more of such number—

"(i) during the fiscal year ending June 30, 1974, or the fiscal year ending June 30, 1975; or

"(ii) during the period beginning July 1, 1973, and ending June 30, 1975;

as the result of a decrease in, or cessation of, Federal activities affecting military installations in the United States announced after April 16, 1973, the amount of the payment to which such agency shall be entitled under title I of such Act [subchapter II of this chapter], as computed under section 3 of such Act [this section], for any fiscal year ending prior to July 1, 1978, shall not be less than 90 per centum of the amount to which the agency was so entitled during the preceding fiscal year. The provisions of this subparagraph shall be effective on and after July 1, 1974, and with respect to appropriations for the fiscal year ending June 30, 1975, and succeeding fiscal years, and such provisions shall be deemed to have been enacted before the beginning of the fiscal year ending June 30, 1975. Nothing in this subparagraph shall be construed to decrease the amount of the payment to which any local educational agency is entitled for any fiscal year on the basis of entitlements created under section 3 of such Act of September 30, 1950 [this section].

"(C) During the first fiscal year in which the amendments made by subsection (a) are effective [see note for section 305(a)(B) of Pub. L. 93-380 under this section] and each of the succeeding fiscal years ending prior to July 1, 1978, the Commissioner shall determine with respect to each local educational agency in any State the number of children who were in average daily attendance at the schools of such agency, and for whom such agency provided free public education, during such fiscal year, and who, while in attendance at such schools resided with a parent employed on Federal property in a State or in a county other than the State or county, as the case may be, in which the school district of such agency is located but which is situated within a reasonable commuting distance from the school district of such agency. If the number of children determined under the preceding sentence is equal to at least 10 per centum of the total number of children determined with respect to such agency for such fiscal year under section 3(b) of the Act of September 30, 1950 (Public Law 874, Eighty-first Congress) [subsec. (b) of this section], the amount to which such agency shall be entitled with respect to a number of children determined under such section 3(b) [subsec. (b) of this section] for such fiscal year, shall not be less than 90 per centum of the amount which such agency received with respect to the number of children so determined during the preceding fiscal year, as computed under section 3 of such Act [this section].

"(D)(i) The Commissioner shall determine for each fiscal year beginning after June 30, 1975, and ending prior to July 1, 1978, the amount which each local educational agency would be paid for that fiscal year under section 3 of the Act of September 30, 1950 (Public Law 874, Eighty-first Congress) [this section] if the amount appropriated had been allocated as provided in section 5(c) of such Act [section 240(c) of this title] without regard for entitlements (or portions thereof) which are attributable to determinations under subsections (a) and (b) of such section [section 240 (a) and (b) of this title] of the number of children who resided on, or resided with a parent employed on, property which is part of a low-rent housing project described in section 403(1)(C) [section 244(1)(C) of this title]. The Commissioner shall then determine the amount which each local educational agency is to be paid for that fiscal year under such section 3 [this section] and allocated in accordance with such section 5(C) [section 240(c) of this title]. If the amount determined with respect to any local educational agency under the first sentence of this division is greater than the amount determined with respect to the second sentence of this division, the Commissioner shall pay to that agency an amount equal to the difference between the amounts so determined.

"(ii) Funds appropriated for any fiscal year for making payments pursuant to the third sentence of division (i) shall be separate from funds appropriated for such fiscal year for making payments pursuant to section 5 of the Act of September 30, 1950 (Public Law 874, Eighty-first Congress) [section 240 of this title]. If, for any fiscal year, a law making appropriations for payments pursuant to such section 5 [section 240 of this title] is enacted, and such law makes no express provision for payments pursuant to such third sentence—

"(I) all funds so appropriated shall be allocated and paid in accordance with such section 5 [section 240 of this title], without regard for such third sentence; and

"(II) not later than fifteen days after the enactment of such law, the Commissioner shall submit a report to the Committees on Appropriations and on Education and Labor of the House of Representatives and the Committees on Appropriations and Labor and Public Welfare of the Senate, which report shall contain a statement detailing the dollar amounts necessary to make the payments required under such third sentence and shall, with respect to such dollar amounts, constitute a budget estimate within the meaning of section 201(a)(5) of the Act of June 10, 1921 (31 U.S.C. 11(a)(5))."

SECTION REFERRED TO IN OTHER SECTION

This section is referred to in sections 239, 240, 241, 244, 1228 of this title.

§ 239. Sudden and substantial increases in attendance.

(a) Determination by Commissioner; amount of contribution.

If the Commissioner determines for any fiscal year ending prior to July 1, 1978—

* * * * *

(As amended Aug. 21, 1974, Pub. L. 93-380, title III, § 303(a)(2), 88 Stat. 522.)

AMENDMENTS

1974—Subsec. (a). Pub. L. 93-380, in text preceding cl. (1), substituted "1978" for "1973".

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment by Pub. L. 93-380 effective on and after July 1, 1973, see section 303(b) of Pub. L. 93-380, set out as a note under section 237 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 240, 241, 244 of this title.

§ 240. Payments.

(a) Applications to Commissioner: time of submission, form, information; "Indian lands" defined.

(1) Any local educational agency desiring to receive the payments to which it is entitled for any fiscal year under sections 237, 238, or 239 of this title shall submit an application therefor through the State educational agency of the State in which such agency is located to the Commissioner. Such applications shall be submitted at such time, in such form, and containing such information as the Commissioner may reasonably require to enable him to carry out his functions under this subchapter and shall give adequate assurance that the applicant will submit such reports as the Commissioner may reasonably require to determine whether such agency is entitled to a payment under any of such sections and the amount of such payment.

(2)(A) Applications submitted under paragraph (1) for payments on the basis of children determined under section 238(a) or 238(b) of this title who reside, or reside with a parent employed, on Indian lands shall set forth adequate assurance that

Indian children will participate on an equitable basis in the school program of the local educational agency.

(B) For the purposes of this paragraph, the term "Indian lands" means that property included within the definition of Federal property under clause (A) of section 244(1) of this title.

(b) Payments by the Commissioner.

The Commissioner shall pay to each local educational agency, making application pursuant to subsection (a) of this section, the amount to which it is entitled under sections 237, 238, or 239 of this title. Sums appropriated, for any fiscal year, to enable the Commissioner to make payments pursuant to this subchapter shall, notwithstanding any other provision of law unless enacted in express limitation of this subsection, remain available for obligation and payments with respect to amounts due local educational agencies under this subchapter for such fiscal year, until the end of the fiscal year succeeding the fiscal year for which such sums are appropriated.

(c) Adjustments where necessitated by appropriations.

If the sums appropriated for any fiscal year for making payments on the basis of entitlements established under sections 237, 238, and 239 of this title for that year are not sufficient to pay in full the total amounts which the Commissioner estimates all local educational agencies are entitled to receive under such sections for such year, the Commissioner shall allocate such sums among local educational agencies and make payments to such agencies as follows:

(1) He shall first allocate to each local educational agency which is entitled to a payment under section 237 and section 238 of this title an amount equal to 25 per centum of the amount to which it is entitled as computed under section 237 or section 238(d) of this title, as the case may be, for such fiscal year.

(2) From that part of such sums which remains after the allocation required by paragraph (1) for any fiscal year, he shall allocate an additional amount—

(A) to each local educational agency described in clause (A) of section 238(d)(1) of this title which equals 75 per centum of the amount to which such agency is entitled, as computed under section 238(d) of this title with respect to a determination of a number of children under section 238(a) of this title, for such fiscal year;

(B) to each local educational agency with respect to which a number of children is determined under clause (2) of section 238(a) of this title which equals 65 per centum of the amount to which such agency is entitled on the basis of determining such children as computed under section 238(d) of this title, for such fiscal year;

(C) to each local educational agency with respect to which a number of children is determined under clause (1) of section 238(a) of this title which equals 63 per centum of the amount to which such agency is entitled on the basis of determining such children, as computed under section 238(d) of this title, for such fiscal year;

(D) to each local educational agency with respect to which a number of children is determined under clause (3) of section 238(b) of this title which equals 35 per centum of the amount to which such agency is entitled on the basis of determining such children, as computed under section 238(d) of this title, for such fiscal year;

(E) to each local educational agency with respect to which a number of children determined under clause (1) and clause (2)(A) of section 238(b) of this title which equals 32 per centum of the amount to which such agency is entitled on the basis of determining such children, as computed under section 238(d) of this title for such fiscal year;

(F) to each local educational agency with respect to which a number of children is determined under clause (2)(B) of section 238(b) of this title which equals 28 per centum of the amount to which such agency is entitled on the basis of determining such children, as computed under section 238(d) of this title, for such fiscal year; and

(G) to each local educational agency with respect to the amount to which such agency is entitled under section 237 of this title which equals 35 per centum of the amount to which such agency is entitled on the basis of computations made under section 237 of this title for such fiscal year.

(3) Any sums remaining after allocations are made pursuant to paragraph (2) for any fiscal year shall be allocated by the Commissioner among local educational agencies which have unsatisfied entitlements established under sections 237, 238, and 239 of this title in proportion to the degree to which such entitlements are unsatisfied for that fiscal year, after allocations are made pursuant to paragraphs (1) and (2).

No allocation may be made pursuant to paragraph (2) or (3) and no payment may be paid on the basis of any such allocation unless allocations are made pursuant to paragraph (1) and payments are made on the basis of such allocations. No allocation may be made pursuant to any clause of paragraph (2) and no payment may be made on the basis of any such allocation unless allocations are made pursuant to all of the clauses of such paragraph and payments are made on the basis of such allocations.

(d) Treatment of payments by the States in determining eligibility for, and the amount of, State aid; notice and opportunity for hearing; "State aid" and "equalize expenditures" defined.

(1) Except as provided in paragraph (2), no payments may be made under this subchapter for any fiscal year to any local educational agency in any State (A) if that State has taken into consideration payments under this subchapter in determining—

(i) the eligibility of any local educational agency in that State for State aid for free public education of children; or

(ii) the amount of such aid with respect to any such agency;

during that fiscal year or the preceding fiscal year, or (B) if such State makes such aid available to local educational agencies in such a manner as to

result in less State aid to any local educational agency which is eligible for payments under this subchapter than such agency would receive if such agency were not so eligible.

(2)(A) Notwithstanding paragraph (1) of this subsection, if a State has in effect a program of State aid for free public education for any fiscal year, which is designed to equalize expenditures for free public education among the local educational agencies of that State, payments under this subchapter for any fiscal year may be taken into consideration by such State in determining the relative—

(i) financial resources available to local educational agencies in that State; and

(ii) financial need of such agencies for the provision of free public education for children served by such agency, provided that a State may consider as local resources funds received under this subchapter only in proportion to the share that local revenues covered under a State equalization program are of total local revenues.

Whenever a State educational agency or local educational agency will be adversely affected by the operation of this subsection, such agency shall be afforded notice and an opportunity for a hearing prior to the reduction or termination of payments pursuant to this subsection.

(B) The terms "State aid" and "equalize expenditures" as used in this subsection shall be defined by the Commissioner by regulation, after consultation with State and local educational agencies affected by this subsection, provided that the term "equalize expenditures" shall not be construed in any manner adverse to a program of State aid for free public education which provides for taking into consideration the additional cost of providing free public education for particular groups or categories of pupils in meeting the special educational needs of such children as handicapped children, economically disadvantaged, those who need bilingual education, and gifted and talented children.

(e) Limitations on payments with respect to children on, or residing with a parent employed on, Federal property described in section 244(1)(C) of this title.

(1) The Commissioner shall determine that part of the entitlement of each local educational agency, for each fiscal year ending prior to July 1, 1978, which is attributable to determinations under subsections (a) and (b) of section 238 of this title of the number of children who resided on, or resided with a parent employed on, property which is described in section 244(1)(C) of this title.

(2) No allocation or payment shall be made under paragraph (2) of subsection (c) of this section with respect to that part of any entitlement of any local educational agency which is determined with respect to such agency for such year under paragraph (1). The limitation in this paragraph shall not operate under the last two sentences of subsection (c) of this section to prevent allocations and payments under such paragraph (2).

(3) The amount of the payment to any local educational agency which is determined with respect to such agency under paragraph (1) shall be used for special programs and projects designed to meet the special educational needs of educationally deprived children from low income families.

(f) Use of funds with respect to entitlements increased under section 238(d)(2)(C) of this title.

The amount of the payment to any local educational agency for any fiscal year which is attributable to a determination of children for increased payments under subparagraph (C) of section 238(d)(2) of this title shall be used by such agency for special educational programs designed to meet the special educational needs of children with respect to whom such determination is made. (As amended June 23, 1972, Pub. L. 92–318, title IV, § 411(c)(1), 86 Stat. 338; Aug. 21, 1974, Pub. L. 93–380, title III, §§ 304(c)(1), (2), (d)(2), 305(a)(2), 88 Stat. 522, 523, 529.)

AMENDMENTS

1974—Pub. L. 93–380, § 305(a)(2), in revising the section, effective on and with respect to appropriations for fiscal years beginning on and after July 1, 1975, substituted provisions of subsecs. (a) to (f) respecting: (a) applications to Commissioner, time of submission, form, information, and definition of "Indian lands"; (b) payments by the Commissioner; (c) adjustments where necessitated by appropriation; (d) treatment of payments by the State in determining eligibility for, and the amount of, State aid, notice and opportunity for hearing, and definitions of "State aid" and "equalize expenditures"; (e) limitations on payments with respect to children on, or residing with a parent employed on, Federal property described in section 244(1)(C) of this title; and (f) use of funds with respect to entitlements increased under section 238(d)(2)(C) of this title for prior provisions of subsecs. (a) to (d) respecting (a) submission of applications and definition of "Indian lands"; (b) payments; (c) adjustments where necessitated by appropriations; and (d) adjustments for reduction in State aid.

Subsec. (c)(1)(A). Pub. L. 93–380, § 304(d)(2), provided for determination of entitlement of local educational agencies to payments based on residence in a low-rent housing project assisted under certain Federal provisions "(other than any such property which is Federal property described in section 244(1)(A) of this title)".

Subsec. (d)(2). Pub. L. 93–380, § 304(c)(1), substituted "Except as provided in paragraph (3), no payments" for "No payments", effective for fiscal year 1975 only. Such provision redesignated and amended by Pub. L. 93–380, § 305(a)(2) to read "(d)(1) Except as provided in paragraph (2), no payments", effective on and with respect to appropriations for fiscal years beginning on and after July 1, 1975.

Subsec. (d)(3). Pub. L. 93–380, § 304(c)(2), added par. (3). Such par. (3) redesignated and amended by Pub. L. 93–380, § 305(a)(2) to be par. (2) with the following changes: substitution in subpar. (A) "paragraph (1)" for "paragraph (2)" and "adversely affected by the operation of this subsection, such agency shall be afforded notice and an opportunity for a hearing prior to the reduction or termination of payments pursuant to this subsection" for "adversely affected by any decision of the Commissioner pursuant to this subsection, such agency shall be afforded notice and an opportunity for a hearing prior to the implementation of such decision" and in subpar. (B) "defined by the Commissioner by regulation, after consultation with State and local educational agencies affected by this subsection," for "defined by the Commissioner by regulation after consultation with State and local educational agencies affected", effective on and with respect to appropriations for fiscal years beginning on and after July 1, 1975.

1972—Subsec. (a). Pub. L. 92–318 designated existing provisions as par. (1) and added par. (2).

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment by section 305(a)(2) of Pub. L. 93–380 effective on and with respect to appropriations for fiscal years beginning on and after July 1, 1975, see section

305(a)(3) of Pub. L. 93–380, set out in part as a note under section 238 of this title.

Section 304(c)(3) of Pub. L. 93–380 provided that: "The amendments made by this subsection [amending subsec. (d)(2) and enacting subsec. (d)(3) of this section] shall be effective for fiscal year 1975 only."

Amendment of subsec. (c)(1)(A) by Pub. L. 93–380 effective on and after sixtieth day after Aug. 21, 1974, except as otherwise specified hereunder, see section 2(c) of Pub. L. 93–380, set out as a note under section 241b of this title.

PAYMENTS TO LOCAL EDUCATIONAL AGENCIES DURING FISCAL YEAR ENDING JUNE 30, 1974, UNDER STATE AID PROGRAM DESIGNED TO EQUALIZE EXPENDITURES OF SUCH AGENCIES; EFFECTIVE DATE

Pub. L. 93–150, § 11, Nov. 7, 1973, 87 Stat. 564, provided that: "Section 5(d)(2) of the Act of September 30, 1950 (Public Law 874, 81st Congress) [subsec. (d)(2) of this section], shall not operate to deprive any local educational agency of payments under such Act [this chapter] during the fiscal year ending June 30, 1974, if such local educational agency is in a State which after June 30, 1972, has adopted a program of State aid for free public education which is designed to equalize expenditures for education among local educational agencies in that State. This section shall be effective on and after July 1, 1973, and shall be deemed to have been enacted on June 30, 1973."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 237 of this title.

§ 241. Education of children where local agencies cannot supply facilities.

DEPENDENTS OF FEDERAL AVIATION ADMINISTRATION PERSONNEL

Pub. L. 94–134, title III, § 310, Nov. 24, 1975, 89 Stat. 711, provided that: "Funds appropriated under this Act [Department of Transportation and Related Agencies Appropriation Act, 1976, and the period ending September 30, 1976] for expenditure by the Federal Aviation Administration shall be available (1) for expenses of primary and secondary schooling for dependents of Federal Aviation Administration personnel stationed outside the continental United States at costs for any given area not in excess of those of the Department of Defense for the same area, when it is determined by the Secretary that the schools, if any, available in the locality are unable to provide adequately for the education of such dependents and (2) for transportation of said dependents between schools serving the area which they attend and their places of residence when the Secretary, under such regulations as he may prescribe, determines that such schools are not accessible by public means of transportation on a regular basis."

Similar provisions were contained in Pub. L. 92–74, title I, § 101, Aug. 10, 1971, 85 Stat. 203; Pub. L. 92–398, title III, § 313, Aug. 22, 1972, 86 Stat. 591; Pub. L. 93–98, title III, § 313, Aug. 16, 1973, 87 Stat. 340; Pub. L. 93–391, title III, § 311, Aug. 28, 1974, 88 Stat. 780.

§ 241–1. Assistance for current school expenditures in cases of certain disasters.

(a) Eligibility requirements; terms; duration; maximum amount.

In any case in which—

(1)(A) the Director of the Office of Emergency Planning determines with respect to any local educational agency (including for the purpose of this section any other public agency which operates schools providing technical, vocational, or other special education to children of elementary or secondary school age) that such agency is located in whole or in part within an area which after August 30, 1965, and prior to July 1, 1978, has suffered a major disaster as the result of any flood, drought, fire, hurricane, earthquake, storm, or other catastrophe which, in the determination of the President pursuant to sections 5122(2) and 5141 of Title 42, is or threatens to be of sufficient severity or magnitude to warrant disaster assistance by the Federal Government; or

(B) the Commissioner determines with respect to any such agency that public elementary or secondary school facilities of such agency have been destroyed or seriously damaged prior to July 1, 1978 as a result of flood, hurricane, earthquake, storm, fire, or other catastrophe, except any such catastrophe caused by negligence or malicious action; and

* * * * *

(c) Authorization of appropriations; expenditure of sums pending appropriation.

There is hereby authorized to be appropriated for each fiscal year such amounts as may be necessary to carry out the provisions of this section. Pending such appropriation, the Commissioner is authorized to expend (without regard for subsections (a) and (e) of section 665 of Title 31) from any funds appropriated to the Office of Education and at that time available to the Commissioner, such sums as may be necessary for providing immediate assistance under this section. Expenditures pursuant to the preceding sentence shall—

(1) be reported by the Commissioner to the Committees on Appropriations and Education and Labor of the House of Representatives and the Committees on Appropriations and Labor and Public Welfare of the Senate within thirty days of the expenditure;

(2) be reimbursed from the appropriations authorized by the first sentence of this subsection.

The report required to the Committees on Appropriations by clause (1) in the preceding sentence shall constitute a budget estimate within the meaning of section 11(a)(5) of Title 31.

* * * * *

(As amended May 22, 1974, Pub. L. 93–288, title VI, § 602(e), 88 Stat. 163; Aug. 21, 1974, Pub. L. 93–380, title III, §§ 303(a)(3), 305(a)(3), 88 Stat. 522, 532.)

AMENDMENTS

1974—Subsec. (a)(1). Pub. L. 93–380, § 303(a)(3), substituted in subsec. (a)(1)(A) "1978" for "1973" and inserted in subsec. (a)(1)(B) "prior to July 1, 1978" after "seriously damaged".

Subsec. (a)(1)(A). Pub. L. 93–288 substituted "sections 5122(2) and 5141 of Title 42" for "section 4402(1) of Title 42".

Subsec. (c). Pub. L. 93–380, § 305(a)(3), substituted provisions respecting expenditure of sums pending appropriation for prior such provision reading "Pending such appropriation, the Commissioner may expend (without regard to subsections (a) and (e) of section 665 of Title 31) from any funds heretofore or hereafter appropriated for expenditure in accordance with other sections of this chapter, such sums as may be necessary for immediately providing assistance under this section, such appropriations to be reimbursed from the appropriations authorized by this subsection when made."

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment of subsec. (a)(1) by Pub. L. 93–380 effective on and after July 1, 1973, see section 303(b) of Pub. L. 93–380, set out as a note under section 237 of this title.

Amendment of subsec. (c) by Pub. L. 93–380 effective Aug. 21, 1974, see section 305(a)(3) of Pub. L. 93–380, set out in part as a note under section 238 of this title.

TRANSFER OF FUNCTIONS

Functions of the Director of the Office of Emergency Preparedness under this section, transferred to the President by Reorganization Plan No. 1 of 1973, set out in the Appendix to Title 5, Government Organization and Employees, were transferred to the Secretary of Housing and Urban Development, by section 2(2) of Ex. Ord. No. 11749, Dec. 10, 1973, 38 F.R. 34177, set out as a note preceding section 4411 of Title 42, The Public Health and Welfare.

The Office of Emergency Preparedness, including the offices of Director, Deputy Director, Assistant Directors, and Regional Directors, was abolished and all functions vested by law in the Office of Emergency Preparedness or the Director of the Office of Emergency Preparedness were transferred to the President of the United States by sections 1 and 3(a)(1) of 1973 Reorg. Plan No. 1, effective July 1, 1973, set out in the Appendix to Title 5, Government Organization and Employees.

Functions of the Director of the Office of Emergency Preparedness with respect to determining whether a major disaster has occurred within the meaning of this section transferred to the Secretary of Housing and Urban Development, see section 1 of Ex. Ord. No. 11725, June 27, 1973, 38 F.R. 17175, set out as a note under section 2271 of Title 50, Appendix, War and National Defense.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 646 of this title.

SUBCHAPTER II.—ASSISTANCE TO LOCAL EDUCATIONAL AGENCIES FOR THE EDUCATION OF CHILDREN OF LOW-INCOME FAMILIES

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 244, 1087ee, 1226c, 1228, 1231b–2, 1401, 1803 of this title; title 29 section 774.

§ 241a. Congressional declaration of policy.

SHORT TITLE

Section 152, formerly section 214, of act Sept. 30, 1950, ch. 1124, title II, as added by Pub. L. 89–750, title I, § 116, Nov. 3, 1966, 80 Stat. 1198, renumbered § 236 and further renumbered § 136 by Pub. L. 90–247, title I, §§ 108(a)(4), 110, Jan. 2, 1968, 81 Stat. 786, 787; renumbered § 150 by Pub. L. 91–230, title I, § 113(b)(4), Apr. 13, 1970, 84 Stat. 126; renumbered § 152 by Pub. L. 93–380, title I, § 101(a)(8), Aug. 21, 1974, 88 Stat. 499, provided that: "This title [enacting this subchapter] may be cited as 'Title I of the Elementary and Secondary Education Act of 1965'."

EDUCATIONAL STUDIES

MEASURE OF POVERTY USED UNDER THIS SUBCHAPTER; STUDY CONSIDERATIONS

Pub. L. 93–380, title VIII, § 823, Aug. 21, 1974, 88 Stat. 601, provided that:

"The Assistant Secretary shall supervise, with the full participation of the National Institute of Education and the National Center for Education Statistics, a thorough study of the manner in which the relative measure of poverty for use in the financial assistance program authorized by title I of the Elementary and Secondary Education Act of 1965 [this subchapter] may be more accurately and currently developed. The study of the relative measure of poverty required by this subsection shall be adjusted for regional, climatic, metropolitan, urban, suburban, and rural differences and for family size and head of household differences. The study required by this section shall consider—

"(A) the availability of data more current than the decennial census including data collected by any agency of the Federal Government which are relevant except that data so collected shall not disclose the name of any individual or any other information customarily held confidential by that agency, but shall include aggregate information to the extent possible;

"(B) the availability and usefulness of cost of living data;

"(C) the availability and usefulness of cost of housing data;

"(D) the availability and usefulness of labor market and job availability data;

"(E) the availability and usefulness of data with respect to prevailing wage rates, unemployment rates, and income distribution; and

"(F) the availability of data with respect to eligibility criteria for aid to families with dependent children under a State plan approved under title IV of the Social Security Act [section 601 et seq. of Title 42].

"(2) The Assistant Secretary is authorized and directed to prepare and submit to the Congress not later than one year after the effective date of this Act [on and after 60th day after Aug. 21, 1974, see section 241b note for section 2(c) of Pub. L. 93–380] a report of the study conducted under this subsection including recommendations with respect to the availability of data designed to improve the relative measure of poverty for the program of financial assistance authorized by title I of the Elementary and Secondary Education Act of 1965 [this subchapter]. Whenever the Assistant Secretary determines that data specified in paragraph (1) of this subsection are not available or that it is impractical to obtain data for each relevant area or category, the report shall contain an explanation of the reasons therefor."

LATE FUNDING OF ELEMENTARY AND SECONDARY EDUCATION PROGRAMS; REPORT TO CONGRESS

Pub. L. 93–380, title VIII, § 824, Aug. 21, 1974, 68 Stat. 602, provided that:

"(a) The Commissioner shall make a full and complete investigation and study to determine—

"(1) the extent to which late funding of Federal programs to assist elementary and secondary education handicaps local educational agencies in the effective planning of their education programs, and the extent to which program quality and achievement of program objectives is adversely affected by such late funding, and

"(2) means by which, through legislative or administrative action, the problem can be overcome.

"(b) Not later than one year after the date of enactment of this Act [Aug. 21, 1974], the Commissioner shall make a report to the Congress on the study required by subsection (a), together with such recommendations as he may deem appropriate."

SAFE SCHOOLS; INFORMATION, SUBMITTAL TO SECRETARY; REPORT TO CONGRESS; REIMBURSEMENT TO STATE AGENCIES; AUTHORIZATION OF APPROPRIATIONS

Pub. L. 93–380, title VIII, § 825, Aug. 21, 1974, 88 Stat. 602, provided that:

"(a) The Secretary shall make a full and complete investigation and study, including necessary research activities, during the period beginning upon the date of enactment of this Act [Aug. 21, 1974] and ending June 30, 1976, to determine—

"(1) the frequency, seriousness, and incidence of crime in elementary and secondary schools in the States;

"(2) the number and location of schools affected by crime;

"(3) the per-pupil average incidence of crimes in elementary and secondary schools in urban, suburban, and rural schools located in all regions of the United States;

"(4) the cost of replacement and repair of facilities, books, supplies, equipment, and other tangible objects seriously damaged or destroyed as the result of crime in such schools; and

"(5) the means by which crimes are attempted to be prevented in such schools and the means by which crimes may more effectively be prevented in such schools.

"(b) Within thirty days after the date of the enactment of this Act [Aug. 21, 1974], the Secretary shall request each State educational agency to take the steps necessary to establish and maintain appropriate records to facilitate the compilation of information under clauses (2) and (3) of subsection (a) and to submit such information to him no later than seven months after the date of enactment of this Act [Aug. 21, 1974]. In conducting this study, the Secretary shall utilize data and

other information available as a result of any other studies which are relevant to the objectives of this section.

"(c) Not later than December 1, 1976, the Secretary shall prepare and submit to the Congress a report on the study required by this section, together with such recommendations as he may deem appropriate. In such report, all information required under each paragraph of subsection (a) of this section shall be stated separately and be appropriately labeled, and shall be separately stated for elementary and secondary schools, as defined in sections 801 (c) and (d) of the Elementary and Secondary Education Act of 1965 [section 881 (c) and (h) of this title].

"(d) The Secretary may reimburse each State educational agency for the amount of expenses incurred by it in meeting the requests of the Secretary under this section.

"(e) There are authorized to be appropriated such sums as may be necessary to carry out the purposes of this section."

ATHLETIC INJURIES; INFORMATION, SUBMITTAL TO SECRETARY; REPORT TO CONGRESS; "SCHOOL" DEFINED; AUTHORIZATION OF APPROPRIATIONS

Pub. L. 93–380, title VIII, § 826, Aug. 21, 1974, 88 Stat. 603, provided that:

"(a) The Secretary shall make a full and complete investigation and study to determine—

"(1) the number of athletic injuries to, and deaths of male and female students occuring in athletic competition between schools, in any practice session for such competition, and in any other school-related athletic activities for the twelve-month period beginning sixty days after the date of enactment of this Act [Aug. 21, 1974];

"(2) the number of athletic injuries and deaths occurring (for the twelve-month period under clause (1)) at each school with an athletic trainer or other medical or health professional personnel trained to prevent or treat such injuries and at each school without such personnel.

"(b) Within fifty days after the date of enactment of this Act [Aug. 21, 1974], the Secretary shall request each school to maintain appropriate records to enable it to compile information under subsection (a) and shall request such school to submit such information to the Secretary immediately after the twelve-month period beginning sixty days after the date of enactment of this Act [Aug 21, 1974]. Not later than eighteen months after the date of enactment of this Act [Aug. 21, 1974], the Secretary shall make a report to the Congress on the study required by subsection (a), together with such recommendations as he may deem appropriate. In such report, all information required under each paragraph of subsection (a) shall be stated separately for the two groups of schools under clauses (1) and (2) of subsection (c), except that the information shall also be stated separately (and shall be excluded from the group under clause (2)) for institutions of higher education which provide either of the two-year programs described in section 801(E)(3) of the Elementary and Secondary Education Act of 1965 [section 881 (e)(3) of this title].

"(c) For the purposes of this section, the term 'school' means (1) any secondary school or (2) any institution of higher education as defined in section 801 of the Elementary and Secondary Education Act of 1965 [section 881 of this title].

"(d) There is authorized to be appropriated the sum of $75,000 to carry out the provisions of this section."

Provisions of sections 823 to 826 of Pub. L. 93–380 effective on and after sixtieth day after Aug. 21, 1974, see section 2(c) of Pub. L. 93–380, set out as a note under section 241b of this title.

PARENTAL PARTICIPATION FOR FINANCIAL ASSISTANCE UNDER SUBCHAPTER; INDIAN LANDS

Pub. L. 92–318, title IV, § 411(c)(2), June 23, 1972, 86 Stat. 339, provided that:

"(A) The Commissioner shall exercise his authority under section 425 of the General Education Provisions Act [section 1231d of this title], to encourage local parental participation with respect to financial assistance under title I of Public Law 874, 81st Congress [this subchapter], based upon children who reside on, or reside with a parent employed on, Indian lands.

"(B) For the purposes of this paragraph, the term 'Indian lands' means that property included within the definition of Federal property under clause (A) of section 403(1) of Public Law 874, 81st Congress [section 244(1) of this title]."

§ 241b. Payments to State educational agencies; duration.

During the period beginning July 1, 1973, and ending June 30, 1978, the Commissioner shall, in accordance with the provisions of this subchapter, make payments to State educational agencies for grants made on the basis of entitlements created under this subchapter. (As amended Aug. 21, 1974, Pub. L. 93–380, title I, § 101(a)(1), 88 Stat. 488.)

AMENDMENTS

1974—Pub. L. 93–380 substituted a period for assistance beginning July 1, 1973, and ending June 30, 1978, for prior period beginning July 1, 1965, and ending June 30, 1973, and inserted provision for grants made on the basis of entitlements created under this subchapter.

EFFECTIVE DATE OF 1974 AMENDMENT

Section 2(c) of Pub. L. 93–380 provided that:

"(1) Unless otherwise specified, each provision of this Act [see Short Title note under section 821 of this title] and each amendment made by this Act [see Short Title note under section 821 of this title] shall be effective on and after the sixtieth day after the enactment of this Act [Aug. 21, 1974].

"(2) In any case where the effective date for an amendment made by this Act [see Short Title note under section 821 of this title] is expressly stated to be effective after June 30, 1973, or on July 1, 1973, such amendment shall be deemed to have been enacted on June 30, 1973."

Section 101(b) of Pub. L. 93–380 provided that: "Except as otherwise specifically provided [repeal of former section 241d–11 and section 241d–12 of this title by section 101(a)(4)(B), effective July 1, 1975], the amendments made by subsection (a) [enacting sections 241c–1 to 241c–5, 241d–11, 241e–1, 241n, 241o, and 244(16), (17) and amending sections 24b, 241c, 241e to 241h, 241j, and 241k of this title] and the provisions of paragraph (10 of such subsection [section 241b–1 of this title] shall be effective on and after July 1, 1974."

SEPARABILITY PROVISION

Section 846 of Pub. L. 93–380 provided that: "If any provision of, or any amendment made by, titles I [enacting sections 241b–1, 241c–1 to 241c–5, 241d–11, 241e–1, 241n, 241o, 244 (16), (17), and 845(g) 880b, 880b–1, 880b–7 to 880b–13, 884, 887b(c), and 887e; amending sections 241b, 241c, 241e to 241h, 241j, 241k, 821, 822, 841, 842, 844a, 861, 866, 867, 887, 887a, 900a–1, and 900a–5; repealing former section 241d–11 and 241d–12 of this title and enacting provisions set out as notes under sections 241b, and 880b–11 of this title] and IV [enacting chapter 40 (section 1801 et seq.) amending section 887d, and repealing sections 844a(d), 844b, 845(c), and 887b of this title] of this Act is held invalid by reason of being inconsistent with the Constitution, all provisions of this Act [see Short Title note under section 821 of this title] and amendments made by this Act [see Short Title note under section 821 of this title] which are separable from such invalid provision or amendment shall remain in effect. If any such provision or amendment is held invalid in one or more applications of such provision or amendment, such provision or amendment shall remain in effect in all valid applications which are separable from any such application."

§ 241b–1. Authorization of appropriations; assistance of otherwise lower fiscal year allotment levels.

There is authorized to be appropriated for each fiscal year a sum not to exceed $15,700,000 to be allocated at the discretion of the Commissioner to

assist those local education agencies whose total allocation under part A of this subchapter is 90 per centum or less than such allocation under such part A during the preceding fiscal year. (Pub. L. 93–380, title I, § 101(a)(10), Aug. 21, 1974, 88 Stat. 501.)

CODIFICATION

Section was enacted as part of Education Amendments of 1974, and not as part of Title I of Elementary and Secondary Education Act of 1965, which comprises this subchapter.

PART A.—BASIC GRANTS

Subpart 1.—Grants to Local Educational Agencies

AMENDMENTS

1974—Pub. L. 93–380, title I, § 101(a)(?)(A)(i)(I), Aug. 21, 1974, 88 Stat. 488, added heading "Subpart 1—Grants to Local Educational Agencies".

PART REFERRED TO IN OTHER SECTIONS

This part is referred to in sections 241b–1, 241h of this title.

§ 241c. Grants.

(a) Determination of grants; eligibility of State educational agency or other State or local public agency for grant.

(1) There is authorized to be appropriated for each fiscal year for the purpose of this paragraph 1 per centum of the amount appropriated for such year for payments to States under section 241g(a) of this title (other than payments under such section to jurisdictions excluded from the term "State" by this subsection, and payments pursuant to section 241c–4 of this title), and there shall be authorized to be appropriated such additional sums as will assure at least the same level of funding under this subchapter as in fiscal year 1973 for Guam, American Samoa, the Virgin Islands, the Trust Territory of the Pacific Islands, and to the Secretary of the Interior for payments pursuant to paragraphs (1) and (2) of subsection (d) of this section. The amount appropriated pursuant to this paragraph shall be allotted by the Commissioner (A) among Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands according to their respective need for grants under this part, and (B) to the Secretary of the Interior in the amount necessary (i) to make payments pursuant to paragraph (1) of subsection (d) of this section, and (ii) to make payments pursuant to paragraph (2) of subsection (d) of this section. The grant which a local educational agency in Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands is eligible to receive shall be determined pursuant to such criteria as the Commissioner determines will best carry out the purposes of this subchapter.

(2) In any case in which the Commissioner determines that satisfactory data for that purpose are available, the grant which a local educational agency in a State shall be eligible to receive under this subpart for a fiscal year shall (except as provided in paragraph (3)) be determined by multiplying the number of children counted under subsection (c) of this section by 40 per centum of the amount determined under the next sentence. The amount determined under this sentence shall be the average per pupil expenditure in the State except that (A) if the average per pupil expenditure in the State is less than 80 per centum of the average per pupil expenditure in the United States, such amount shall be 80 per centum of the average per pupil expenditure in the United States, or (B) if the average per pupil expenditure in the State is more than 120 per centum of the average per pupil expenditure in the United States, such amount shall be 120 per centum of the average per pupil expenditure in the United States. In any case in which such data are not available, subject to paragraph (3), the grant for any local educational agency in a State shall be determined on the basis of the aggregate amount of such grants for all such agencies in the county or counties in which the school district of the particular agency is located, which aggregate amount shall be equal to the aggregate amount determined under the two preceding sentences for such county or counties, and shall be allocated among those agencies upon such equitable basis as may be determined by the State educational agency in accordance with basic criteria prescribed by the Commissioner.

(3)(A) Upon determination by the State educational agency that a local educational agency in the State is unable or unwilling to provide for the special educational needs of children described in clause (C) of paragraph (1) of subsection (c) of this section, who are living in institutions for neglected or delinquent children, the State educational agency shall, if it assumes responsibility for the special educational needs of such children, be eligible to receive the portion of the allocation to such local educational agency which is attributable to such neglected or delinquent children, but if the State educational agency does not assume such responsibility, any other State or local public agency, as determined by regulations established by the Commissioner, which does assume such responsibility shall be eligible to receive such portion of the allocation.

(B) In the case of local educational agencies which serve in whole or in part the same geographical area, and in the case of a local educational agency vehicle provides free public education for a substantial number of children who reside in the school district of another local educational agency, the State educational agency may allocate the amount of the grants for those agencies among them in such manner as it determines will best carry out the purposes of this subchapter.

(C) The grant which Puerto Rico shall be eligible to receive under this subpart for a fiscal year shall be the amount arrived at by multiplying the number of children counted under subsection (c) of this section by 40 per centum of (i) the average per pupil expenditure in Puerto Rico or (ii) in the case where such average per pupil expenditure is more than 120 per centum of the average per pupil expenditure in the United States, 120 per centum of the average per pupil expenditure in the United States.

(4) For purposes of this subsection, the term "State" does not include Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands.

(b) Eligibility of local educational agency for grant.

A local educational agency shall be eligible for a grant for a fiscal year under this part only if it meets the following requirements with respect to the num-

ber of children counted, under subsection (c) of this section:

(1) In any case (except as provided in paragraph (3)) in which the Commissioner determines that satisfactory data for the purpose of this subsection as to the number of such children are available on a school district basis, the number of such children in the school district of such local educational agency shall be at least ten.

(2) In any other case, except as provided in paragraph (3), the number of such children in the county which includes such local educational agency's school district shall be at least ten.

(3) In any case in which a county includes a part of the school district of the local educational agency concerned and the Commissioner has not determined that satisfactory data for the purpose of this subsection are available on a school district basis for all the local educational agencies for all the counties into which the school district of the local educational agency concerned extends, the eligibility requirement with respect to the number of such children for such local educational agency shall be determined in accordance with regulations prescribed by the Commissioner for the purposes of this subsection.

(c) Number of children; determination of aggregate number; children from families from below and above poverty level: criteria.

(1) The number of children to be counted for purposes of this section is the aggregate of (A) the number of children aged five to seventeen, inclusive, in the school district of the local educational agency from families below the poverty level as determined under paragraph (2)(A), (B) two-thirds of the number of children aged five to seventeen, inclusive, in the school district of such agency from families above the poverty level as determined under paragraph (2)(B), and (C) the number of children aged five to seventeen, inclusive, in the school district of such agency living in institutions for neglected or delinquent children (other than such institutions operated by the United States) but not counted pursuant to section 241c–3 of this title for the purposes of a grant to a State agency, or being supported in foster homes with public funds.

(2)(A) For the purposes of this section, the Commissioner shall determine the number of children aged five to seventeen, inclusive, from families below the poverty level on the basis of the most recent satisfactory data available from the Department of Commerce for local educational agencies (or, if such data are not available for such agencies, for counties); and in determining the families which are below the poverty level, the Commissioner shall utilize the criteria of poverty used by the Bureau of the Census in compiling the 1970 decennial census.

(B) For purposes of this section, the Secretary of Health, Education, and Welfare shall determine the number of children aged five to seventeen, inclusive, from families above the poverty level on the basis of the number of such children from families receiving an annual income, in excess of the current criteria of poverty, from payments under the program of aid to families with dependent children under a State plan approved under title IV of the Social Security Act; and in making such determinations the Secretary shall utilize the criteria of poverty used by the Bureau of the Census in compiling the 1970 decennial census for a nonfarm family of four in such form as those criteria have been updated by increases in the Consumer Price Index. The Secretary shall determine the number of such children, and the number of children of such ages living in institutions for neglected or delinquent children, or being supported in foster homes with public funds, on the basis of the caseload data for the month of January of the preceding fiscal year (using, in the case of children described in the preceding sentence, the criteria of poverty and the form of such criteria required by such sentence which were determined for the second calendar year preceding such month of January) or, to the extent that such data are not available to him before April 1 of the calendar year in which the Secretary's determination is made, then, on the basis of the most recent reliable data available to him at the time of such determination.

(C) When requested by the Commissioner, the Secretary of Commerce shall make a special estimate of the number of children of such ages who are from families below the poverty level (as determined under subparagraph (A) of this paragraph) in each county or school district, and the Commissioner is authorized to pay (either in advance or by way of reimbursement) the Secretary of Commerce the cost of making this special estimate. The Secretary of Commerce shall give consideration to any request of the chief executive of a State for the collection of additional census information. For purposes of this section, the Secretary shall consider all children who are in correctional institutions to be living in institutions for delinquent children.

(d) Payments for out-of-State Indian children and for special educational needs of educationally deprived Indian children on reservations serviced by schools operated for Indian children.

(1) From the amount allotted for payments to the Secretary of the Interior under clause (B)(i) in the second sentence of subsection (a)(1) of this section, the Secretary of the Interior shall make payments to local educational agencies, upon such terms as the Commissioner determines will best carry out the purposes of this subchapter, with respect to out-of-State Indian children in the elementary and secondary schools of such agencies under special contracts with the Department of the Interior. The amount of such payment may not exceed, for each such child, 40 per centum of (A) the average per pupil expenditure in the State in which the agency is located or (B) 120 per centum of such expenditure in the United States, whichever is the greater.

(2) The amount allotted for payments to the Secretary of the Interior under clause (B)(ii) in the second sentence of subsection (a)(1) of this section for any fiscal year shall be, as determined pursuant to criteria established by the Commissioner, the amount necessary to meet the special educational needs of educationally deprived Indian children on reservations serviced by elementary and secondary schools operated for Indian children by the Department of the Interior. Such payments shall

be made pursuant to an agreement between the Commissioner and the Secretary containing such assurances and terms as the Commissioner determines will best achieve the purposes of this subchapter. Such agreement shall contain (A) an assurance that payments made pursuant to this subparagraph will be used solely for programs and projects approved by the Secretary of the Interior which meet the applicable requirements of section 241e(a) of this title and that the Department of the Interior will comply in all other respects with the requirements of this subchapter, and (B) provision for carrying out the applicable provisions of sections 241e (a) and 241f(a)(3) of this title. (As amended June 23, 1972, Pub. L. 92–318, title IV, § 411(b)(1), (2), title V, § 508, 86 Stat. 338, 352; Aug. 21, 1974, Pub. L. 93–380, title I, § 101(a)(2)(A)(i)(II), (ii), (B)–(D), 88 Stat. 488, 490, 491.)

REFERENCES IN TEXT

Title IV of the Social Security Act, referred to in subsec. (c)(2)(B), is classified to section 601 et seq. of Title 42, The Public Health and Welfare.

AMENDMENTS

1974—Subsec. (a)(1). Pub. L. 93–380, § 101(a)(2)(A)(i)(II), incorporated existing provisions of former subpar. (A) in provisions designated as par. (1), reduced rate from "3" to "1" per centum, provided for payments under section 241c–4 of this title, authorized additional appropriations to assure the same level of funding as in fiscal year 1973, and deleted former subpar. (A) references making the subpar. (A) applicable to Puerto Rico, now covered in subsec. (a)(3)(C) of this section, and former subpars. (B) and (C) provisions for payments for out-of-State Indian children and for special educational needs of educationally deprived Indian children on reservations serviced by schools operated for Indian children, now covered in subsec. (d)(1) and (2) of this section.

Subsec. (a)(2). Pub. L. 93–380, § 101(a)(2)(A)(i)(II), in revising par. (2), substituted in first sentence "grant" for "maximum grant", where appearing initially, "subpart" for "part"; substituted "shall (except as provided in paragraph (3)) be determined by multiplying the number of children counted under subsection (c) of this section by 40 per centum of the amount determined under the next sentence. The amount determined under this sentence shall be the average per pupil expenditure in the State except that (A) if the average per pupil expenditure in the State is less than 80 per centum of the average per pupil expenditure in the United States, such amount shall be 80 per centum of the average per pupil expenditure in the United States or (B) if the average per pupil expenditure in the State is more than 120 per centum of the average per pupil expenditure in the United States, such amount shall be 120 per centum of the average per pupil expenditure in the United States." for "shall be (except as provided in paragraph (3)) an amount equal to the Federal percentage (established pursuant to subsection (c) of this section) of the average per pupil expenditure in that State, or, if greater, in the United States, multiplied by the number of children in the school district of such agency who are aged five to seventeen, inclusive, and are (A) in families having an annual income of less than the low-income factor (established pursuant to subsection (c) of this section), (B) in families receiving an annual income in excess of the low-income factor (established pursuant to subsection (c) of this section) from payments under the program of aid to families with dependent children under a State plan approved under title IV of the Social Security Act, or (C) living in institutions for neglected or delinquent children (other than such institutions operated by the United States) but not counted pursuant to paragraph (7) of this subsection for the purpose of a grant to a State agency, or being supported in foster homes with public funds."; substituted "In any case in which such data are not available, subject to paragraph (3), the grant" for "In any other case, the maximum grant", "aggregate amount" for "aggregate maximum amount" in two instances, and "equal to the aggregate amount determined under the two preceding sentences for such county or counties" for "equal to the Federal percentage of such per pupil expenditure multiplied by the number of children of such ages in such county or counties who are described in clause (A), (B), or (C) of the previous sentence"; and deleted former third sentence respecting eligibility of local educational agency for funds when responsible for special educational needs of children living in institutions for neglected or delinquent children, now covered in subsec. (a)(3)(A) of this section.

Subsec. (a)(3)(A). Pub. L. 93–380, § 101(a)(2)(A)(i)(II), redesignated third sentence of former subsec. (a)(2) of this section as subpar. (A), deleted introductory text "Notwithstanding the foregoing provisions of this paragraph," and substituted "children described in clause (C) of paragraph (1) of subsection (c) of this section" for "children, described in clause (C) of the first sentence of this paragraph"; and deleted provisions of former subpar. (A) for reduction of maximum amount of grant to 50 per centum of the budgeted sum where the maximum amount of the grant determined pursuant to par. (1) or (2) for any local educational agency for the fiscal year ending June 30, 1967, was greater than 50 per centum of the sum budgeted by that agency for current expenditures for that year (as determined pursuant to regulations of the Commissioner).

Subsec. (a)(3)(B). Pub. L. 93–380, § 101(a)(2)(A)(i)(II), substituted "amount of the grants" for "amount of the maximum grants" and "subchapter" for "part".

Subsec. (a)(3)(C). Pub. L. 93–380, § 101(a)(2)(A)(i)(II), added subpar. (C). Former provisions were contained in prior subsec. (a)(1)(A) of this section.

Subsec. (a)(4). Pub. L. 93–380, § 101(a)(2)(A)(i)(II), deleted "except paragraphs (5) and (7)," preceding "the State" and "Puerto Rico," preceding "Guam".

Subsec. (a)(5). Pub. L. 93–380, § 101(a)(2)(A)(i)(II), deleted par. (5) provisions for maximum amount of grant to a State agency providing free public education for handicapped children equal to an amount equal to the Federal percentage of the average per pupil expenditure in the State, or if greater in the United States, multiplied by the number of such children in average daily attendance at schools for handicapped children operated or supported by the State agency and limiting use of payments only for programs and projects designed to meet special educational needs of such children, now covered in section 241c–1 of this title.

Subsec. (a)(6). Pub. L. 93–380, § 101(a)(2)(A)(i)(II), deleted par. (6) provisions for maximum total of grants to a State agency providing education for migratory children of migratory agricultural workers, now cevered in section 241c–2 of this title.

Subsec. (a)(7). Pub. L. 93–380, § 101(a)(2)(A)(i)(II), deleted par. (7) provisions for maximum amount of grant to a State agency providing free public education for children in institutions for neglected or delinquent children or in adult correctional institutions equal to the Federal percentage of the average per pupil expenditure in the State, or if greater in the United States, multiplied by the number of such children in average daily attendance at schools for such children operated or supported by the State agency and limiting use of payments for programs and projects designed to meet special educational needs of such children, now covered in section 241c–3 of this title.

Subsec. (b). Pub. L. 93–380, § 101(a)(2)(A)(ii), substituted "counted under subsection (c) of this section" for "aged five to seventeen, inclusive, described in clauses (A), (B), and (C) of the first sentence of paragraph (2) of subsection (a) of this section".

Subsec. (c)(1). Pub. L. 93–380, § 101(a)(2)(B), substituted par. (1) provisions respecting computation of aggregate number of children for former subsec. (c) provisions prescribing the "Federal percentage" and "low-income factor" for fiscal years ending June 30, 1966, through 1973.

Subsec. (c)(2). Pub. L. 93–380, § 101(a)(2)(C)(i), redesignated subsec. (d) as subsec. (c)(2), amended as described below.

Pub. L. 93–380, § 101(a)(2)(C)(iii), repealed former second sentence reading "At any time such data for a county

are available in the Department of Commerce, such data shall be used in making calculations under this section."

Subsec. (c)(2)(A). Pub. L. 93–380, § 101(a)(2)(C)(ii), redesignated first sentence as subpar. (A), substituted "below the poverty level" for "having an annual income of less than the low-income factor (as established pursuant to subsection (c) of this section)" and added text reading "for local educational agencies (or, if such data are not available for such agencies, for counties); and in determining the families which are below the poverty level, the Commissioner shall utilize the criteria of poverty used by the Bureau of the Census in compiling the 1970 decennial census".

Subsec. (c)(2)(B). Pub. L. 93–380, § 101(a)(2)(C)(iv), redesignated third sentence as subpar. (B), inserted introductory text "For purposes of this section,", the provision for utilization of the criteria of poverty used by the Bureau of the Census in compiling the 1970 decennial census for a nonfarm family of four in such form as those criteria have been updated by increases in the Consumer Price Index, and parenthetical text "(using, in the case of children described in the preceding sentence, the criteria of poverty and the form of such criteria required by such sentence which were determined for the second calendar year preceding such month of January)", and substituted "the number of children aged five to seventeen, inclusive, from families above the poverty level on the basis of the number of such children from families receiving an annual income, in excess of the current criteria of poverty," for "the number of children of such ages from families receiving an annual income in excess of the low-income factor".

Subsec. (c)(2)(C). Pub. L. 93–380, § 101(a)(2)(C)(v), inserted subpar. (C) designation for former fourth sentence and substituted therein "below the poverty level (as determined under subparagraph (A) of this paragraph)" for "having an annual income less than the low-income factor (established pursuant to subsection (c) of this section)".

Subsec. (d). Pub. L. 93–380, § 101(a)(2)(D), added subsec. (d). Former subsec. (d) redesignated subsec. (c)(2).

Subsec. (e). Pub. L. 93–380, § 101(a)(2)(C)(vi), repealed subsec. (e), which related to average per pupil expenditure.

1972—Subsec. (a)(1)(A). Pub. L. 92–318, § 411(b)(1), (2)(B), incorporated existing provisions of third sentence in provisions designated as item (i), substituted provisions of item "(ii) in the case of fiscal years ending prior to July 1, 1973, the amount necessary to make payments pursuant to subparagraph (C)" for "for the fiscal year ending June 30, 1968, and each of the succeeding fiscal years ending prior to July 1, 1972, the amount necessary to meet the special educational needs of educationally deprived children on reservations serviced by elementary and secondary schools operated for Indian children by the Department of Interior" and struck from fourth sentence "and the terms upon which payment shall be made to the Department of the Interior" preceding "shall be determined".

Subsec. (a)(1)(C). Pub. L. 92–318, § 411(b)(2)(A), added par. (C).

Subsec. (a)(7). Pub. L. 92–318, § 508, inserted "or in adult correctional institutions, if such funds are used solely for children" after "for children in institutions for neglected or delinquent children".

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment by Pub. L. 93–380 effective on and after July 1, 1974, see section 101(b) of Pub. L. 93–380, set out as a note under section 241b of this title.

EFFECTIVE DATE OF 1972 AMENDMENT

Section 411(b)(3) of Pub. L. 92–318 provided that: "The amendments made by this subsection [to subsec. (a)(1) of this section] shall be effective on and after July 1, 1972."

SURVEY AND STUDY FOR UPDATING NUMBER OF CHILDREN COUNTED

Section 822 of Pub. L. 93–380 provided that:

"(a) The Secretary of Commerce shall, in consultation with the Secretary of Health, Education, and Welfare, expand the current population survey (or make such other survey) in order to furnish current data for each State with respect to the total number of school-age children in each State to be counted for purposes of section 103(c)(1)(A) of title I of the Elementary and Secondary Act of 1965 [subsec. (c)(1)(A) of this section]. Such survey shall be made, and a report of the results of such survey shall be made jointly by the Secretary of Commerce and the Secretary of Health, Education, and Welfare to the Congress, not later than one year after the date of the enactment of this Act [Aug. 21, 1974].

"(b) The Secretary of Health, Education, and Welfare and the Secretary of Commerce shall study the feasibility of updating the number of children counted for purposes of section 103(c) of title I of the Act [subsec. (c) of this section] in school districts of local educational agencies in order to make adjustments in the amounts of the grants for which local educational agencies within a State are eligible under section 103(a)(2) of the Act [subsec. (a)(2) of this section], and shall report to the Congress, no later than one year after the date of enactment of this Act [Aug. 21, 1974], the results of such study, which shall include an analysis of alternative methods for making such adjustments, together with the recommendations of the Secretary of Health, Education, and Welfare and the Secretary of Commerce with respect to which such method or methods are most promising for such purpose, together with a study of the results of the expanded population survey, authorized in subsection (a) (including analysis of its accuracy and the potential utility of data derived therefrom) for making adjustments in the amounts paid to each State under section 144(a)(1) of title I of such Act [section 241h(a)(1) of this title].

"(c) No method of making adjustments directed to be considered pursuant to subsection (a) or subsection (b) shall be implemented unless such method shall first be enacted by the Congress."

Provisions effective on and after sixtieth day after Aug. 21, 1974, see section 2(c) of Pub. L. 93–380, set out as a note under section 241b of this title.

PUERTO RICO; AMOUNT OF GRANTS FOR LOCAL EDUCATIONAL AGENCIES AND COMMONWEALTH OPERATED PROGRAMS

Section 843(d) of Pub. L. 93–380 provided that:

"Notwithstanding any provision of part A of title I of the Elementary and Secondary Education Act of 1965 [section 241c et seq. of this title], the amount which the Commonwealth of Puerto Rico is eligible to receive under subpart 1 of such part A [this section] or under sections 121, 122, or 123 [sections 241c–1, 241c–2, or 241c–3 of this title] for the fiscal year ending June 30, 1975, shall not exceed 50 per centum of the full amount the Commonwealth of Puerto Rico would receive (after required ratable reductions) under such subpart [this section] or section [section 241c–1, 241c–2, or 241c–3 of this title] but for this subsection, and for the fiscal years ending June 30, 1976, June 30, 1977, and June 30, 1978, such amount shall not exceed 75 per centum of the full amount the Commonwealth of Puerto Rico would receive (after required ratable reductions) under such subpart [this section] or section [section 241c–1, 241c–2, or 241c–3 of this title] but for this subsection."

Provisions effective on and after July 1, 1974, see section 843(e) of Pub. L. 93–380, set out as a note under section 241g of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 241d, 241e, 241g, 241h, 244, 425, 880b–1, 887, 1087ee, 1226c, 1413 of this title.

Subpart 2.—State Operated Programs [New]

AMENDMENTS

1974—Pub. L. 93–380, title I, § 101(a)(2)(E), Aug. 21, 1974, 88 Stat. 491, added heading "Subpart 2—State Operated Programs".

§ 241c–1. Programs for handicapped children.

(a) State agencies eligible for grants.

A State agency which is directly responsible for providing free public education for handicapped children (including mentally retarded, hard of hearing, deaf, speech impaired, visually handicapped,

seriously emotionally disturbed, crippled, or other health impaired children who by reason thereof require special education), shall be eligible to receive a grant under this section for any fiscal year.

(b) Amount of grants.

Except as provided in sections 241c–4 and 241c–5 of this title, the grant which an agency (other than the agency for Puerto Rico) shall be eligible to receive under this section shall be an amount equal to 40 per centum of the average per pupil expenditure in the State (or (1) in the case where the average per pupil expenditure in the State is less than 80 per centum of the average per pupil expenditure in the United States, of 80 per centum of the average per pupil expenditure in the United States, or (2) in the case where the average per pupil expenditure in the State is more than 120 per centum of the average per pupil expenditure in the United States, of 120 per centum of the average per pupil expenditure in the United States), multiplied by the number of such children in average daily attendance, as determined by the Commissioner, at schools for handicapped children operated or supported by the State agency, including schools providing special education for handicapped children under contract or other arrangement with such State agency, in the most recent fiscal year for which satisfactory data are available. The grant which Puerto Rico shall be eligible to receive under this section shall be the amount arrived at by multiplying the number of children in Puerto Rico counted as provided in the preceding sentence by 40 per centum of (1) the average per pupil expenditure in Puerto Rico or (2) in the case where such average per pupil expenditure is more than 120 per centum of the average per pupil expenditure in the United States, 120 per centum of the average per pupil expenditure in the United States.

(c) Payments only for programs and projects for special educational needs; assurances to Commissioner.

A State agency shall use the payments made under this section only for programs and projects (including the acquisition of equipment and, where necessary, the construction of school facilities) which are designed to meet the special educational needs of such children, and the State agency shall provide assurances to the Commissioner that each such child in average daily attendance counted under subsection (b) of this section will be provided with such a program, commensurate with his special needs, during any fiscal year for which such payments are made.

(d) Participation in educational program of local education agency rather than State agency.

In the case where such a child leaves an educational program for handicapped children operated or supported by the State agency in order to participate in such a program operated or supported by a local educational agency, such child shall be counted under subsection (b) of this section if (1) he continues to receive an appropriately designed educational program and (2) the State agency transfers to the local educational agency in whose program such child participates an amount equal to the sums received by such State agency under this section which are attributable to such child, to be used for the purposes set forth in subsection (c) of this section. (Sept. 30, 1950, ch. 1124, title I, § 121, as added Aug. 21, 1974, Pub. L. 93–380, title I, § 102(a)(2)(E), 88 Stat. 491.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 241c–4, 241c–5, 241f, 241h, 1411, 1413 of this title.

§ 241c–2. Programs for migratory children.

(a) State agencies eligible for grants; applications; approval by Commissioner; notice and hearing prior to final disapproval; special arrangements with other agencies; period of childhood status; priority of migrants.

(1) A State educational agency or a combination of such agencies, upon application, shall be entitled to receive a grant for any fiscal year under this section to establish or improve, either directly or through local educational agencies, programs of education for migratory children of migratory agricultural workers or of migratory fishermen. The Commissioner may approve such an application only upon his determination—

(A) that payments will be used for programs and projects (including the acquisition of equipment and where necessary the construction of school facilities) which are designed to meet the special educational needs of migratory children of migratory agricultural workers or of migratory fishermen, and to coordinate these programs and projects with similar programs and projects in other States, including the transmittal of pertinent information with respect to school records of such children;

(B) that in planning and carrying out programs and projects there has been and will be appropriate coordination with programs administered under part B of title III of the Economic Opportunity Act of 1964;

(C) that such programs and projects will be administered and carried out in a manner consistent with the basic objectives of clauses (1)(B) and (3) through (12) of section 241e(a) of this title; and

(D) that, in planning and carrying out programs and projects, there has been adequate assurance that provision will be made for the preschool educational needs of migratory children of migratory agricultural workers or of migratory fishermen, whenever such agency determines that compliance with this clause will not detract from the operation of programs and projects described in clause (A) of this paragraph after considering the funds available for this purpose.

The Commissioner shall not finally disapprove an application of a State educational agency under this paragraph except after reasonable notice and opportunity for a hearing to the State educational agency.

(2) If the Commissioner determines that a State is unable or unwilling to conduct educational programs for migratory children of migratory agricultural workers or of migratory fishermen, or that it

would result in more efficient and economic administration, or that it would add substantially to the welfare or educational attainment of such children, he may make special arrangements with other public or nonprofit private agencies to carry out the purposes of this section in one or more States, and for this purpose he may use all or part of the total of grants available for any such State under this section.

(3) For purposes of this section, with the concurrence of his parents, a migratory child of a migratory agricultural worker or of a migratory fisherman shall be deemed to continue to be such a child for a period, not in excess of five years, during which he resides in the area served by the agency carrying on a program or project under this subsection. Such children who are presently migrant, as determined pursuant to regulations of the Commissioner, shall be given priority in this consideration of programs and activities contained in applications submitted under this subsection.

(b) Amount of grants; allocation of excess amounts; use of statistics made available by migrant student record transfer system or other system for determination of number of migrant children.

Except as provided in sections 241c–4 and 241c–5 of this title, the total grants which shall be made available for use in any State (other than Puerto Rico) for this section shall be an amount equal to 40 per centum of the average per pupil expenditure in the State (or (1) in the case where the average per pupil expenditure in the State is less than 80 per centum of the average per pupil expenditure in the United States, of 80 per centum of the average per pupil expenditure in the United States, or (2) in the case where the average per pupil expenditure in the State is more than 120 per centum of the average per pupil expenditure in the United States, of 120 per centum of the average per pupil expenditure in the United States) multiplied by (1) the estimated number of such migratory children aged five to seventeen, inclusive, who reside in the State full time, and (2) the full-time equivalent of the estimated number of such migratory children aged five to seventeen, inclusive, who reside in the State part time, as determined by the Commissioner in accordance with regulations, except that if, in the case of any State, such amount exceeds the amount required under subsection (a) of this section, the Commissioner shall allocate such excess, to the extent necessary, to other States, whose total of grants under this sentence would otherwise be insufficient for all such children to be served in such other States. The total grant which shall be made available for use in Puerto Rico shall be arrived at by multiplying the number of children in Puerto Rico counted as provided in the preceding sentence by 40 per centum of (1) the average per pupil expenditure in Puerto Rico or (2) in the case where such average per pupil expenditure is more than 120 per centum of the average per pupil expenditure in the United States, 120 per centum of the average per pupil expenditure in the United States. In determining the number of migrant children for the purposes of this section the Commissioner shall use statistics made available by the migrant student record transfer system or such other system as he may determine most accurately and fully reflects the actual number of migrant students. (Sept. 30, 1950, ch. 1124, title I, § 122, as added Aug. 21, 1974, Pub. L. 93–380, title I, § 101(a)(2)(E), 88 Stat. 492.)

REFERENCES IN TEXT

Part B of title III of the Economic Opportunity Act of 1964, referred to in subsec. (a)(1)(B), is classified to section 2861 et seq. of Title 42, The Public Health and Welfare.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 241c–4, 241c–5, 241f, 241h, 241j, 241k of this title.

§ 241c–3. Programs for neglected or delinquent children.

(a) State agencies eligible for grants.

A State agency which is directly responsible for providing free public education for children in institutions for neglected or delinquent children or in adult correctional institutions shall be entitled to receive a grant under this section for any fiscal year (but only if grants received under this section are used only for children in such institutions).

(b) Amount of grants.

Except as provided in sections 241c–4 and 241c–5 of this title, the grant which such an agency (other than the agency for Puerto Rico) shall be eligible to receive shall be an amount equal to 40 per centum of the average per pupil expenditure in the State (or (1) in the case where the average per pupil expenditure in the State is less than 80 per centum of the average per pupil expenditure in the United States, of 80 per centum of the average per pupil expenditure in the United States, or (2) in the case where the average per pupil expenditure in the State is more than 120 per centum of the average per pupil expenditure in the United States, of 120 per centum of the average per pupil expenditure in the United States) multiplied by the number of such children in average daily attendance, as determined by the Commissioner, at schools for such children operated or supported by that agency, including schools providing education for such children under contract or other arrangement with such agency, in the most recent fiscal year for which satisfactory data are available. The grant which Puerto Rico shall be eligible to receive under this section shall be the amount arrived at by multiplying the number of children in Puerto Rico counted as provided in the preceding sentence by 40 per centum of (1) the average per pupil expenditure in Puerto Rico or (2) in the case where such average per pupil expenditure is more than 120 per centum of the average per pupil expenditure in the United States, 120 per centum of the average per pupil expenditure in the United States.

(c) Payments only for programs and projects for special educational needs.

A State agency shall use payments under this section only for programs and projects (including the acquisition of equipment and where necessary the construction of school facilities) which are designed to meet the special educational needs of such children. (Sept. 30, 1950, ch. 1124, title I, § 123, as

added Aug. 21, 1974, Pub. L. 93–380, title I § 101 (a) (2) (E), 88 Stat. 494.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 241c, 241c–4, 241c–5, 241h of this title.

§ 241c–4. Reservation of funds for territories; authorization of appropriations.

There is authorized to be appropriated for each fiscal year for purposes of each of sections 241c–1, 241c–2 and 241c–3 of this title, an amount equal to not more than 1 per centum of the amount appropriated for such year for such sections for payments to Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands under each such section. The amounts appropriated for each such section shall be allotted among Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands according to their respective need for such grants, based on such criteria as the Commissioner determines will best carry out the purposes of this subchapter. (Sept. 30, 1950, ch. 1124, title I, § 124, as added Aug. 21, 1974, Pub. L. 93–380, title I, § 101(a) (2) (E), 88 Stat. 494.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 241c, 241c–1 to 241c–3 of this title.

§ 241c–5. Minimum payments for State operated programs.

Except as provided in section 843 of the Education Amendments of 1974, no State agency shall receive in any fiscal year prior to July 1, 1978, pursuant to sections 241c–1, 241c–2, or 241c–3 of this title, an amount which is less than 100 per centum of the amount which that State agency received in the prior fiscal year pursuant to such sections 241c–1, 241c–2, or 241c–3 of this title, respectively. (Sept. 30, 1950, ch. 1124, title I, § 125, as added Aug. 21, 1974, Pub. L. 93–380, title I, § 101(a) (2) (E), 88 Stat. 495.)

REFRENCES IN TEXT

Section 843 of Education Amendments of 1974, referred to in text, refers to section 843 of Pub. L. 93–380, which amended sections 241g(b), 822(a)(1), (2), 842(a)(1), (2), 845(b), 862(a)(1), 866a(a), 867(c)(1), (A), (B), 1202(f), 1204(a), 1412(a) (1), (a)(1)(A), (2), and 1413(a)(1) of this title, and enacted provisions set out as notes under sections 241c, 241g, and 1412 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 241c–1 to 241c–3 of this title.

PART B.—SPECIAL INCENTIVE GRANTS

PART REFERRED TO IN OTHER SECTIONS

This part is referred to in section 241h of this title.

§§ 241d to 241d–2.

Pub. L. 93–380, title I, § 101(a)(3), Aug. 21, 1974, 88 Stat. 495, redesignated section 121 as section 126, and probably intended to redesignate sections 122 and 123 as sections 127 and 128, of act Sept. 30, 1950, ch. 1124, title I, in view of enactment of sections 121 to 125 of act Sept. 30, 1950 (classified to sections 241c–1 to 241c–5 of this title) by section 101(a)(2)(E) of Pub. L. 93–380.

PART C.—SPECIAL GRANTS

AMENDMENTS

1974—Pub. L. 93–380, title I, § 101(a)(4)(A), Aug. 21, 1974, 88 Stat. 495, deleted from heading after "Special Grants" the following text: "For Urban and Rural Schools Serving Areas With the Highest Concentrations of Children From Low-Income Families".

PART REFERRED TO IN OTHER SECTIONS

This part is referred to in section 241h of this title.

§ 241d–11. Eligibility and maximum amount of special grants.

(a) Special grants for local educational agencies.

Each local educational agency in a State which is eligible for a grant under this subchapter for any fiscal year shall be entitled to an additional grant for that fiscal year if it meets the requirements of subsection (b) of this section. The amount of such grant shall be determined in accordance with subsection (c) of this section.

(b) Requirements for special grants; compilation of data.

(1) A local educational agency shall be entitled to a grant under this part for any fiscal year if the school district of such agency is located in a county in which—

(A) the number of children described in paragraph (2) for such year amounts to at least 200 per centum of the average number of such children in all counties in the State in which such agency is located for that fiscal year; or

(B) the number of children so described in such county for such year is 10,000 and amounts to 5 per centum of the total number of children in such county.

(2) For the purposes of paragraph (1), the children counted with respect to a local educational agency shall be those children in such county who are—

(A) in families having an annual income of $3,000 or less; or

(B) in families receiving an annual income in excess of $3,000 from payments under the program of aid to families with dependent children under a State plan approved under title IV of the Social Security Act; or

(C) living in institutions for neglected or delinquent children or being supported in foster homes with public funds.

(3)(A) Determinations with respect to numbers of children in any county under paragraph (2) shall be made by the Commissioner on the basis of the most recent satisfactory data available to him.

(B)(i) The number of children determined with respect to one or more counties shall be allocated by the Commissioner, for the purposes of paragraph (2), among the local educational agencies with school districts located in such county or counties.

(ii) In any case where—

(I) two or more local educational agencies serve, in whole or in part, the same geographical area; or

(II) a local educational agency provides free public education for a substantial number of children who reside in the school district of another local educational agency,

the Commissioner may allocate the number of children determined under this subsection among such agencies in such a manner as will best achieve the purposes of this section.

(C) (i) For the purposes of paragraph (2), the Commissioner shall determine the number of children from families having an annual income of $3,000 or less on the basis of the most recent satisfactory data available from the Department of Commerce. At any time such data for a county are available in the Department of Commerce, such data shall be used in making calculations under this subsection.

(ii) For the purposes of this subsection, the Secretary of Health, Education, and Welfare shall determine the number of children from families receiving an annual income in excess of $3,000 from payments under the program of aid to families with dependent children under a State plan approved under title IV of the Social Security Act and the number of children living in institutions for neglected or delinquent children or being supported in foster homes with public funds, on the basis of caseload data for the month of January of the preceding fiscal year, or to the extent that such data are not available to him before April 1 of the calendar year in which the determination is made, then on the basis of the most recent data available to him at the time of such determination. For the purposes of this subsection, the Secretary shall consider all children who are in correctional institutions to be living in institutions for delinquent children.

(c) Amount of special grants; grant formula.

The amount of the grant to which a local educational agency shall be entitled for any fiscal year shall be—

(A) the number of children determined with respect to such agency under subsection (b) of this section;

multiplied by—

(B) 50 per centum of the average per pupil expenditure of all the local educational agencies in the State in which such agency is located.

(d) Fiscal year State payments limitation.

Notwithstanding any other provision of this section, no payments for any fiscal year under this part to the local educational agencies in a single State shall exceed 12 per centum of the aggregate payments to all local educational agencies in that year under this part.

(e) Fiscal year payments limitation.

(1) The aggregate of the amount for which all local educational agencies are eligible under this part shall not exceed $75,000,000 for any fiscal year. If, for any fiscal year, such aggregate, as computed without regard to the preceding sentence, exceeds $75,000,000, the amount for which each local educational agency is eligible shall be reduced ratably until such aggregate does not exceed such limitation.

(2) For the purpose of making payments under this part there are authorized to be appropriated not in excess of $75,000,000 for the fiscal year ending June 30, 1975.

(f) "State" and "children" defined.

For the purposes of this section, the term—

(1) "State" means the fifty States and the District of Columbia; and

(2) "children" includes all children aged five through seventeen, inclusive.

(Sept. 30, 1950, ch. 1124, title I, § 131, as added Aug. 21, 1974, Pub. L. 93–380, title I, § 101(a)(4)(A), 88 Stat. 495.)

REFERENCES IN TEXT

Title IV of the Social Security Act, referred to in subsecs. (b)(2)(B), (3)(C)(ii), is classified to section 601 et seq. of Title 42, The Public Health and Welfare.

CODIFICATION

A prior section 241d–11 of this title, act Sept. 30, 1950, ch. 1124, title I, § 131, as added Apr. 13, 1970, Pub. L. 91–230, title I, § 113(b)(6), 84 Stat. 127, which also related to eligibility and maximum amount of special grants for urban and rural schools serving areas with the highest concentrations of children from low-income families, was repealed by Pub. L. 93–380, title I, § 101(a)(4)(B), Aug. 21, 1974, 88 Stat. 496, effective July 1, 1975.

§ 241d–12. Repealed. Pub. L. 93–380, title I, § 101(a)(4)(B), Aug. 21, 1974, 88 Stat. 496.

Section, act Sept. 30, 1950, ch. 1124, title I, § 132, as added Apr. 13, 1970, Pub. L. 91–230, title I, § 113(b)(6), 84 Stat. 128, which related to uses of funds for such special grants, was repealed effective July 1, 1975.

PART D.—GENERAL PROVISIONS

§ 241e. Application for grants by local agency.

(a) Approval by State agency; considerations.

A local educational agency may receive a grant under this subchapter for any fiscal year only upon application therefor approved by the appropriate State educational agency, upon its determination (consistent with such basic criteria as the Commissioner may establish)—

(1) that payments under this subchapter will be used for the excess costs of programs and projects (including the acquisition of equipment, payments to teachers of amounts in excess of regular salary schedules as a bonus for service in schools eligible for assistance under this subchapter, the training of teachers, and, where necessary, the construction of school facilities and plans made or to be made for such programs, projects, and facilities) (A) which are designed to meet the special educational needs of educationally deprived children in school attendance areas having high concentrations of children from low-income families (and at the discretion of the local educational agency, in any school of such agency not located in such a school attendance area, at which the proportion of children in actual average daily attendance from low-income families is substantially the same as the proportion of such children in such an area of that agency) and (B) which are of sufficient size, scope, and quality to give reasonable promise of substantial progress toward meeting those needs and to this end involve an expenditure of not less than $2,500, except that the State educational agency may with respect to any applicant reduce the $2,500 requirement if it determines that it would be impossible, for reasons such as distance or difficulty of travel, for the applicant to join effectively with other local educational agencies for the purpose of meeting the requirement; and nothing herein shall be deemed to preclude two or more local educational agences from entering into agreements, at their option, for carrying out

jointly operated programs and projects under this subchapter: *Provided,* That the amount used for plans for any fiscal year shall not exceed 1 per centum of the amount determined for that agency for that year pursuant to section 241c of this title or $2,000, whichever is greater;

(2) that the local educational agency has provided satisfactory assurance that section 241e–1 of this title will be complied with;

* * * * *

(4) in the case of any project for construction of school facilities, that the project is not inconsistent with overall State plans for the construction of school facilities and that the requirements of section 1232b of this title will be complied with on all such construction projects;

* * * * *

(12) in the case of projects involving the use of education aides, the local educational agency sets forth well-developed plans providing for coordinated programs of training in which education aides and the professional staff whom they are assisting will participate together;

(13) that, where a school attendance area does not meet the requirement of paragraph (1)(A) of this subsection for a fiscal year, or in the case of a local educational agency electing to allocate funds under section 241n of this title, where such an area does not meet the requirement of that section, but did meet the appropriate requirement in either of the two preceding fiscal years, that school attendance area shall be considered to meet the applicable criterion for that fiscal year; and

(14) that the local educational agency shall establish an advisory council for the entire school district and shall establish an advisory council for each school of such agency served by a program or project assisted under section 241g(a)(2) of this title, each of which advisory councils—

(A) has a majority of its members parents of the children to be served,

(B) is composed of members selected by the parents in each school attendance area,

(C) has been given responsibility by such agency for advising it in the planning for, and the implementation and evaluation of, such programs and projects, and

(D) is provided by such agency, in accordance with regulations of the Commissioner, with access to appropriate information concerning such programs and projects.

(b) Encouragement of individualized written educational plans under joint agreement.

It is the intent of the Congress to encourage, where feasible, the development for each educationally deprived child participating in a program under this subchapter of an individualized written educational plan (maintained and periodically evaluated), agreed upon jointly by the local educational agency, a parent or guardian of the child, and when appropriate, the child.

(c) Notice and hearing by State agency prior to disapproval.

The State educational agency shall not finally disapprove in whole or in part any application for funds under this subchapter without first affording the local educational agency submitting the application reasonable notice and opportunity for a hearing. (As amended June 23, 1972, Pub. L. 92–318, title V, § 507(a), (b), 86 Stat. 352; Aug. 21, 1974, Pub. L. 93–380, title I, § 101(a)(5), (9)(A), (B), 88 Stat. 496, 500.)

CODIFICATION

Reference to section 241n of this title in subsec. (a)(13) was substituted for reference in the original to a nonexistent section 140 of act Sept. 30, 1950, ch. 1124, title I, to conform to intent of Congress made manifest in the enactment of section 150 of act Sept. 30, 1950, by section 101(a)(8) of Pub. L. 93–380, classified to section 241n of this title.

AMENDMENTS

1974—Subsec. (a)(1). Pub. L. 93–380, § 101(a)(5)(A), inserted "the excess costs of" preceding "programs and projects", substituted "assistance under this subchapter" for "assistance under this section", and provided for payments for the training of teachers.

Subsec. (a)(1)(A). Pub. L. 93–380, § 101(a)(5)(B), provided for payments for programs and projects at the local educational agency, in any school of such agency not located in such a school attendance area, at which the proportion of children in actual average daily attendance from low-income families is substantially the same as the proportion of such children in such an area of that agency.

Subsec. (a)(1)(B). Pub. L. 93–380, § 101(a)(9)(B), deleted "maximum" preceding "amount" in the proviso.

Subsec. (a)(2). Pub. L. 93–380, § 101(a)(5)(C), substituted "that the local educational agency has provided satisfactory assurance that section 241e–1 of this title will be complied with" for "that, to the extent consistent with the number of educationally deprived children in the school district of the local educational agency who are enrolled in private elementary and secondary schools, such agency has made provision for including special educational services and arrangements (such as dual enrollment, educational radio and television, and mobile educational services and equipment) in which such children can participate".

Subsec. (a)(4). Pub. L. 93–380, § 101(a)(9)(A), substituted reference to section "1232b" or "2411" of this title.

Subsec. (a)(13). Pub. L. 93–380, § 101(a)(5)(D), added par. (13) and struck out former par. (13) respecting requirement that local educational agency set forth procedures and policies for uses of funds under part C of this subchapter and, for fiscal years ending after June 30, 1970, set forth comprehensive plan for meeting the special educational needs of children to be served under such part C.

Subsec. (a)(14). Pub. L. 93–380, § 101(a)(5)(D), added par. (14).

Subsec. (b). Pub. L. 93–380, § 101(a)(5)(E), added subsec. (b). Former subsec. (b) redesignated (c).

Subsec. (c). Pub. L. 93–380, § 101(a)(5)(E), redesignated former subsec. (b) as (c) and struck out prior subsec. (c) respecting education of migratory children of migratory agricultural workers.

1972—Subsec. (c)(1)(C). Pub. L. 92–318, § 507(a), added cl. (C). Former cl. (C) redesignated (D).

Subsec. (c)(1)(D). Pub. L. 92–318, § 507(a), redesignated former cl. (C) as (D).

Subsec. (c)(3). Pub. L. 92–318, § 507(b), provided that children who are presently migrant, as determined under regulations of the Commissioner, shall be given priority in the consideration of programs and activities contained in applications submitted under this subsection.

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment by Pub. L. 93–380 effective on and after July 1, 1974, see section 101(b) of Pub. L. 93–380, set out as a note under section 241b of this title.

MIGRATORY CHILDREN OF MIGRATORY AGRICULTURAL WORKERS; STUDY ON EDUCATIONAL AFFECTS OF SUBCHAPTER II; REPORT

Section 507(c) of Pub. L. 92–318 provided that:

"(1) The Commissioner shall conduct a study of the operation of title I of the Elementary and Secondary Education Act of 1965 [this subchapter] as such title affects the education of migratory children of migratory agricultural workers. Such study shall include an evaluation of the specific programs and projects assisted under such title I for such children, with a view toward the assessment of their effectiveness, and shall include a review of the administration of such programs and projects by the States.

"(2) Not later than December 31, 1973, the Commissioner shall submit a report on the study required by paragraph (1), which report shall contain a statement with respect to the effectiveness of individual programs and projects assisted under such title I [this subchapter] with respect to migrant children, an evaluation of State administration of such programs and projects, and make recommendations for the improvement of such programs and projects."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 241c, 241c–2, 241e–1, 241f, 241g, 241n, 244, 1103 of this title.

§ 241e–1. Participation of children enrolled in private schools.

(a) Special educational services and arrangements for children in public schools.

To the extent consistent with the number of educationally deprived children in the school district of the local educational agency who are enrolled in private elementary and secondary schools, such agency shall make provisions for including special educational services and arrangements (such as dual enrollment, educational radio and television, and mobile educational services and equipment) in which such children can participate and meeting the requirements of clauses (A) and (B) of paragraph (1) of subsection (a) of section 241e of this title, paragraph (2) of subsection (a) of such section, and clauses (A) and (B) of paragraph (3) of subsection (a) of such section 241e of this title.

(b)(1) Waiver of requirement of local educational agency participation.

If a local educational agency is prohibited by law from providing for the participation in special programs for educationally deprived children enrolled in private elementary and secondary schools as required by subsection (a) of this section, the Commissioner shall waive such requirement and the provisions of section 241e(a)(2) of this title, and shall arrange for the provision of services to such children through arrangements which shall be subject to the requirements of subsection (a) of this section.

(2) Arrangements for services where local educational agency fails to provide for participation on equitable basis.

If the Commissioner determines that a local educational agency has substantially failed to provide for the participation on an equitable basis of educationally deprived children enrolled in private elementary and secondary schools as required by subsection (a) of this section, he shall arrange for the provision of services to such children through arrangements which shall be subject to the requirements of subsection (a) of this section, upon which determination the provisions of paragraph (a) and section 241e(a)(2) of this title shall be waived.

(3) Payment of cost of arranged services from appropriate allocations.

When the Commissioner arranges for services pursuant to this section, he shall, after consultation with the appropriate public and private school officials, pay the cost of such services from the appropriate allocation or allocations under this subchapter.

(4)(A) Final action of Commissioner; notice and hearing.

The Commissioner shall not take any final action under this section until he has afforded the State educational agency and local educational agency affected by such action at least sixty days notice of his proposed action and an opportunity for a hearing with respect thereto on the record.

(B) Petition for review; transmittal of copy to Commissioner; record of proceedings.

If a State or local educational agency is dissatisfied with the Commissioner's final action after a hearing under subparagraph (A) of this paragraph, it may within sixty days after notice of such action, file with the United States court of appeals for the circuit in which such State is located a petition for review of that action. A copy of the petition shall be forthwith transmitted by the clerk of the court to the Commissioner. The Commissioner thereupon shall file in the court the record of the proceedings on which he based his action, as provided in section 2112 of Title 28.

(C) Fact findings; conclusiveness of determinations; remand.

The findings of fact by the Commissioner, if supported by substantial evidence, shall be conclusive; but the court, for good cause shown, may remand the case to the Commissioner to take further evidence, and the Commissioner may thereupon make new or modified findings of fact and may modify his previous action, and shall file in the court the record of the further proceedings. Such new or modified findings of fact shall likewise be conclusive if supported by substantial evidence.

(D) Jurisdiction of court of appeals; review by Supreme Court.

Upon the filing of such petition, the court shall have jurisdiction to affirm the action of the Commissioner or to set it aside, in whole or in part. The judgment of the court shall be subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of Title 28. (Sept. 30, 1950, ch. 1124, title I, § 141A, as added Aug. 21, 1974, Pub. L. 93–380, title I, § 101(a)(6), 88 Stat. 497.)

EFFECTIVE DATE

Section effective on and after July 1, 1974, see section 101(b) of Pub. L. 93–380, set out as a note under section 241b of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 241e, 1944 of this title.

§ 241f. Assurances from States; action by Commissioner on applications.

(a) Any State desiring to participate under this subchapter (except with respect to the program provided for in section 241c–2 of this title relating to

migratory children of migratory agricultural workers) shall submit through its State educational agency to the Commissioner an application, in such detail as the Commissioner deems necessary, which provides satisfactory assurance—

(1) that, except as provided in section 241g(b) of this title, payments under this subchapter will be used only for programs and projects which have been approved by the State educational agency pursuant to section 241e(a) of this title and which meet the applicable requirements of that section and of section 241c–1 of this title, and that such agency will in all other respects comply with the provisions of this subchapter, including the enforcement of any obligations imposed upon a local educational agency under section 241e(a) of this title;

* * * * *

(As amended Aug. 21, 1974, Pub. L. 93–380, title I, § 101(a)(9)(D), (E), 88 Stat. 500.)

AMENDMENTS

1974—Subsec. (a). Pub. L. 93–380, § 101(a)(9)(D), substituted "provided for in section 241c–2 of this title" for "described in section 241e(c) of this title".

Subsec. (a)(1). Pub. L. 93–380, § 101(a)(9)(E), substituted reference to section "241c–1" for "241c(a)(5)" of this title.

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment by Pub. L. 93–380 effective on and after July 1, 1974, see section 101(b) of Pub. L. 93–380, set out as a note under section 241b of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 241c, 241d–1, 241j, 241k of this title.

§ 241g. Payment of funds.

(a) Distribution by State to local agencies.

* * * * *

(2) From the funds paid to it pursuant to paragraph (1) each State educational agency shall distribute to each local educational agency of the State which is not ineligible by reason of section 241c(b) of this title and which has submitted an application approved pursuant to section 241e(a) of this title the amount for which such application has been approved, except that this amount shall not exceed the amount determined for that agency pursuant to section 241c of this title.

(b) Maximum funds payable.

The Commissioner is authorized to pay to each State amounts equal to the amounts expended by it for the proper and efficient performance of its duties under this subchapter (including technical assistance for the measurements and evaluations required by section 241e(a)(6) of this title), except that the total of such payments in any fiscal year shall not exceed—

(1) 1 per centum of the amount allocated to the State and its local educational agencies as determined for that year under this subchapter; or

(2) $150,000, or $25,000 in the case of Guam, American Samoa, the Virgin Islands, or the Trust Territory of the Pacific Islands, whichever is the greater.

* * * * *

(As amended Aug. 21, 1974, Pub. L. 93–380, title I, § 101(a)(9)(C), (F), (G), title VIII, § 843(a)(1), 88 Stat. 500, 611.)

AMENDMENTS

1974—Subsec. (a)(2). Pub. L. 93–380, § 101(a)(9)(C), (F), deleted word "maximum" preceding "amount determined" and reference to section 241d–11 of this title.

Subsec. (b)(1). Pub. L. 93–380, § 101(a)(9)(G), substituted "amount allocated to the State and its local educational agencies as determined for that year under this subchapter;" for "total maximum grants for State and local educational agencies of the State as determined for that year pursuant to sections 241c, 241d–11, and 241h of this title,".

Subsec. (b)(2). Pub. L. 93–380, § 843(a)(1), struck out reference to "Puerto Rico," preceding "Guam".

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment of subsecs. (a)(2) and (b)(1) by Pub. L. 93–380 effective on and after July 1, 1974, see section 101(b) of Pub. L. 93–380, set out as a note under section 241b of this title.

Section 843(e) of Pub. L. 93–380 provided that: "Unless otherwise specifically provided [see section 843(b)(1)–(3) of Pub. L. 93–380, set out as note under section 1412 of this title, respecting amendment of sections 1412(a)(1), (a)(1)(A), (2), and 1413(a)(1) of this title], the amendments made by this section [to sections 241g(b), 822(a)(1), (2), 842(a)(1), (2), 845(b), 862(a)(1), 866a(a), 867(c)(1)(A), (B), 1202(g), and 1204(a) of this title, and provisions of section 843(d) of Pub. L. 93–380, set out as a note under section 241c of this title] shall be effective on and after July 1, 1974."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 241c, 241e, 241f, 241o of this title.

§ 241h. Adjustments necessitated by appropriations.

If the sums appropriated for any fiscal year for making the payments provided in this subchapter are not sufficient to pay in full the total amounts which all local and State educational agencies are entitled to receive under this subchapter for such year, the amount available for each grant to a State agency eligible for a grant under section 241c–1, 241c–2, or 241c–3 of this title shall be equal to the total amount of the grant as computed under each such section. If the remainder of such sums available after the application of the preceding sentence is not sufficient to pay in full the total amounts which all local educational agencies are entitled to receive under part A of this subchapter for such year, the allocations to such agencies and allocations under part B shall, subject to adjustments under the next sentence, be ratably reduced to the extent necessary to bring the aggregate of such allocations within the limits of the amount so appropriated, except that entitlements under such part B shall be taken into consideration only to the extent that appropriations for this subchapter (excluding part C thereof) exceed $1,396,975,000 for any fiscal year and such entitlements shall not exceed $50,000,000 in any fiscal year. The allocation of a local educational agency which would be reduced under the preceding sentence to less than 85 per centum of its allocation under part A for the preceding fiscal year, shall be increased to such amount, the total of the increases thereby required being derived by proportionately reducing the allocations of the remaining local educational agencies, under the preceding sentence, but with

such adjustments as may be necessary to prevent the allocation to any remaining local educational agency from being thereby reduced to less than 85 per centum of its allocation for such year. If the aggregate of the amounts to which all States are entitled under such part B exceeds $50,000,000 the entitlement of each State shall be reduced ratably until such aggregate does not exceed $50,000,000 in such fiscal year. In case additional funds become available for making payments under this subchapter for that year, such reduced amounts shall be increased on the same basis that they were reduced. In order to permit the most effective use of all appropriations made to carry out this subchapter, the Commissioner may set dates by which (1) State educational agencies must certify to him the amounts for which the applications of educational agencies have been or will be approved by the State, and (2) State educational agencies referred to in section 241c–2 of this title must file applications. If the maximum grant a local educational agency or any agency referred to in section 241c–2 of this title would receive (after any ratable reduction which may have been required under the first sentence of this section) is more than an amount which the State educational agency determines, in accordance with regulations prescribed by the Commissioner, such agency will use, the excess amount shall be made available first to educational agencies in that State. Determinations of the educational agencies to which such excess amounts shall be made available shall be made by the State educational agency in furtherance of the purposes of this subchapter, in accordance with criteria prescribed by the Commissioner which are designed to assure that such excess amounts will be made available to other eligible educational agencies with the greatest need, for the purpose of, where appropriate, redressing inequities inherent in, or mitigating hardships caused by, the application of the provisions of paragraph (2) of section 241c(a) of this title as a result of such factors as population shifts and changing economic circumstances. In the event excess amounts remain after carrying out the preceding two sentences of this section, such excess amounts shall be distributed among the other States as the Commissioner shall prescribe for use by local educational agencies in such States for the purposes of this subchapter in such manner as the respective State educational agencies shall prescribe. (As amended Aug. 21, 1974, Pub. L. 93–380, title I, § 101(a)(7), (9)(H), 88 Stat. 498, 500.)

CODIFICATION

Second sentence which provided "For the purposes of parts B and C of this subchapter, in determining entitlements under such parts, the number of children described in section 241c(a) of this title shall be ascertained by using a low-income factor of (i) $2,000 when allocations are made under clause (A) of paragraph (2) in the first sentence of this section, (ii) $3,000 when allocations are made under clause (B) of such paragraph, and (iii) $4,000 when allocations are made under clause (C) of such paragraph." is omitted as retention would be inconsistent with amendment by section 101(a)(7) of Pub. L. 93–380 which deleted former first sentence containing the internal references in the omitted second sentence and also to conform to the intent of Congress manifest in Senate Report, No. 93–763, of Mar. 29, 1974, excluding reference to such second sentence.

AMENDMENTS

1974—Pub. L. 93–380 incorporated existing provisions of introductory text and par. (1) thereof in the first sentence, substituting current references to sections 241c–1, 241c–2, and 241c–3 of this title for prior references to pars. (5), (6) and (7) of former section 241c(a) of this title, and substituted the second, third, and fourth sentences respecting the adjustment of allocations through reductions and increments necessitated by insufficient appropriations for prior similar provisions contained in pars. (2)(A)–(D), (3), and (4) of the first sentence; and substituted reference to "section 241c–2 of this title" for prior reference to "section 241(c)(a)(6) of this title" in two instances.

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment by Pub. L. 93–380 effective on and after July 1, 1974, see section 101(b) of Pub. L. 93–380, set out as a note under section 241b of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 241g of this title.

§ 241j. Withholding funds for non-compliance with assurances.

Whenever the Commissioner, after reasonable notice and opportunity for hearing to any State educational agency, finds that there has been a failure to comply substantially with any assurance set forth in the application of that State approved under section 241c–2 or 241f(b) of this title, the Commissioner shall notify the agency that further payments will not be made to the State under this subchapter (or, in his discretion, that the State educational agency shall not make further payments under this subchapter to specified local educational agencies affected by the failure) until he is satisfied that there is no longer any such failure to comply. Until he is so satisfied, no further payments shall be made to the State under this subchapter, or payments by the State educational agency under this subchapter shall be limited to local educational agencies not affected by the failure, as the case may be. (As amended Aug. 21, 1974, Pub. L. 93–380, title I, § 101(a)(9)(I), 88 Stat. 501.)

AMENDMENTS

1974—Pub. L. 93–380 substituted reference to section "241c–2" for "241e(c)" of this title.

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment by Pub. L. 93–380 effective on and after July 1, 1974, see section 101(b) of Pub. L. 93–380, set out as a note under section 241b of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 241k of this title.

§ 241k. Judicial review.

(a) Jurisdiction.

If any State is dissatisfied with the Commissioner's final action with respect to the approval of its application submitted under section 241c–2 or 241f(b) of this title or with his final action under section 241j of this title, such State may, within sixty days after notice of such action, file with the United States court of appeals for the circuit in which such State is located a petition for review of that action. A copy of the petition shall be forthwith transmitted by the clerk of the court to the Commissioner. The Commissioner thereupon shall

file in the court the record of the proceedings on which he based his action, as provided in section 2112 of Title 28.

* * * * *

(As amended Aug. 21, 1974, Pub. L. 93–380, title I, § 101(a)(9)(J), 88 Stat. 501.)

AMENDMENTS

1974—Pub. L. 93–380 substituted reference to section "241c–2" for "241e(c)" of this title.

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment by Pub. L. 93–380 effective on and after July 1, 1974, see section 101(b) of Pub. L. 93–380, set out as a note under section 241b of this title.

§ 241l. National Advisory Council on the Education of Disadvantaged Children.

* * * * *

(c) Annual report to President and Congress; termination of National Council.

The National Council shall make such reports of its activities, findings, and recommendations (including recommendations for changes in the provisions of this subchapter) as it may deem appropriate and shall make an annual report to the President and the Congress not later than March 31 of each calendar year. Such annual report shall include a report specifically on which of the various compensatory education programs funded in whole or in part under the provisions of this subchapter, and of other public and private educational programs for educationally deprived children, hold the highest promise for raising the educational attainment of these educationally deprived children. The President is requested to transmit to the Congress such comments and recommendations as he may have with respect to such report. Subject to section 1233g(b) of this title, the National Council shall continue to exist until July 1, 1978. (As amended Aug. 21, 1974, Pub. L. 93–380, title VIII, § 845(a), 88 Stat. 612.)

AMENDMENTS

1974—Subsec. (c). Pub. L. 93–380 continued existence of the National Council until July 1, 1978.

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment by Pub. L. 93–380 effective on and after sixtieth day after Aug. 21, 1974, see section 2(c) of Pub. L. 93–380, set out as a note under section 241b of this title.

§ 241n. Allocation of funds within school district of local educational agency; racial or cultural discrimination prohibition; reports to Director of National Institute of Education.

(a) For any fiscal year not more than 20 local educational agencies selected for the purpose of section 821(a)(5) of the Education Amendments of 1974 may elect, with the approval of the districtwide parent advisory council which is required to be established under section 241e(a)(14) of this title, to allocate funds received from payments under this subchapter on the basis of a method or combination of methods other than the method provided under section 241e(a)(1)(A) of this title. Any method selected pursuant to this section shall be so designed and administered as to be free from racial or cultural discrimination.

(b) Any local educational agency to which this section applies shall submit such reports to the Director of the National Institute of Education at such time and in such manner as the Director may reasonably require to carry out his responsibilities under section 821(a)(5) of the Education Amendments of 1974. (Sept. 30, 1950, ch. 1124, title I, § 150, as added Aug. 21, 1974, Pub. L. 93–380, title I, § 101(a)(8), 88 Stat. 499.)

REFERENCES IN TEXT

Section 821(a)(5) of Education Amendments of 1974, referred to in text, is set out as a note under section 1221e of this title.

EFFECTIVE DATE

Section effective on and after July 1, 1974, see section 101(b) of Pub. L. 93–380, set out as a note under section 241b of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 241e of this title.

§ 241o. Program evaluation.

(a) Impact of programs and projects; contracts or other arrangements for independent evaluations; opinions of participants.

The Commissioner shall provide for independent evaluations which describe and measure the impact of programs and projects assisted under this subchapter. Such evaluations may be provided by contract or other arrangements, and all such evaluations shall be made by competent and independent persons, and shall include, whenever possible, opinions obtained from program or project participants about the strengths and weaknesses of such programs or projects.

(b) Standards.

The Commissioner shall develop and publish standards for evaluation of program or project effectiveness in achieving the objectives of this subchapter.

(c) Studies.

The Commissioner shall, where appropriate, consult with State agencies in order to provide for jointly sponsored objective evaluation studies of programs and projects assisted under this subchapter within a State.

(d) Models; uniform procedures and criteria.

The Commissioner shall provide to State educational agencies, models for evaluations of all programs conducted under this subchapter, for their use in carrying out their functions under section 241g(a) of this title, which shall include uniform procedures and criteria to be utilized by local educational agencies, as well as by the State agency in the evaluation of such programs.

(e) Technical assistance.

The Commissioner shall provide such technical and other assistance as may be necessary to State educational agencies to enable them to assist local educational agencies in the development and application of a systematic evaluation of programs in accordance with the models developed by the Commissioner.

(f) Models; objective criteria; techniques and methodology for producing data.

The models developed by the Commissioner shall specify objective criteria which shall be utilized in the evaluation of all programs and shall outline techniques (such as longitudinal studies of children in-

volved in such programs) and methodology (such as the use of tests which yield comparable results) for producing data which are comparable on a statewide and nationwide basis.

(g) Report to Congressional committees; annual reports.

The Commissioner shall make a report to the respective committees of the Congress having legislative jurisdiction over programs authorized by this subchapter and the respective Committees on Appropriations concerning his progress in carrying out this section not later than January 31, 1975, and thereafter he shall report to such committees no later than January 31 of each calendar year the results of the evaluations of programs and projects required under this section, which shall be comprehensive and detailed, as up-to-date as possible, and based to the maximum extent possible on objective measurements, together with any other related findings, and evaluations, and his recommendations with respect to legislation.

(h) Information gathering and dissemination systems.

The Commissioner shall also develop a system for the gathering and dissemination of results of evaluations and for the identification of exemplary programs and projects, and for the dissemination of information concerning such programs and projects or such elements thereof to State and local educational agencies responsible for the design and conduct of programs and projects under this subchapter, and to the education profession and the general public.

(i) Limitation on fiscal year expenditures; sums available for surveys and studies.

The Commissioner is authorized, out of funds appropriated to carry out this subchapter in any fiscal year, to expend such sums as may be necessary to carry out the provisions of this section, but not to exceed one-half of 1 per centum of the amount appropriated for such program, of which $5,000,000 for each fiscal year ending prior to July 1, 1977, shall be available only for the surveys and studies authorized by section 821 of the Education Amendments of 1974. (Sept. 30, 1950, ch. 1124, title I, § 151, as added Aug. 21, 1974, Pub. L. 93–380, title I, § 101(a)(8), 88 Stat. 499.)

REFERENCES IN TEXT

Section 821 of Education Amendments of 1974, referred to in subsec. (i), is set out as a note under section 1221e of this title.

EFFECTIVE DATE

Section effective on and after July 1, 1974, see section 101(b) of Pub. L. 93–380, set out as a note under section 241b of this title; title 25 section 458e.

SUBCHAPTER III.—FINANCIAL ASSISTANCE TO LOCAL EDUCATIONAL AGENCIES FOR EDUCATION OF INDIAN CHILDREN [NEW]

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 1221f, 1221g of this title.

§ 241aa. Congressional declaration of policy.

(a) In recognition of the special educational needs of Indian students in the United States, Congress hereby declares it to be the policy of the United States to provide financial assistance to local educational agencies to develop and carry out elementary and secondary school programs specially designed to meet these special educational needs.

(b) The Commissioner shall, in order to effectuate the policy set forth in subsection (a) of this section, carry out a program of making grants to local educational agencies which are entitled to payments under this subchapter and which have submitted, and had approved, applications therefor, in accordance with the provisions of this subchapter. (Sept. 30, 1950, ch. 1124, title III, § 302, as added June 23, 1972, Pub. L. 92–318, title IV, § 411(a), 86 Stat. 335.)

SHORT TITLE

Section 401 of Pub. L. 92–318 provided that: "This title [which enacted this subchapter and sections 887c, 1119a, 1211a, and 1221f to 1221h of this title, amended sections 240(a), 241c(a)(1), 822(a)(1), 842(a)(1), 880b–3a(a), 1091b(a), and 1412(a)(1)(B) of this title, and enacted provisions set out as notes under sections 241a, 341c, and 821 of this title] may be cited as the 'Indian Education Act'."

Act Sept. 30, 1950, ch. 1124, title III, § 301, as added June 23, 1972, Pub. L. 92–318, title IV, § 411(a), 86 Stat. 334, provided that: "This title [this subchapter] may be cited as the 'Indian Elementary and Secondary School Assistance Act'."

§ 241bb. Grants to local educational agencies.

(a) Entitlement; computation; average per pupil expenditure.

(1) For the purpose of computing the amount to which a local educational agency is entitled under this subchapter for any fiscal year ending prior to July 1, 1978, the Commissioner shall determine the number of Indian children who were enrolled in the schools of a local educational agency, and for whom such agency provided free public education, during such fiscal year.

(2)(A) The amount of the grant to which a local educational agency is entitled under this subchapter for any fiscal year shall be an amount equal to (i) the average per pupil expenditure for such agency (as determined under subparagraph (C)) multipled by (ii) the sum of the number of children determined under paragraph (1).

(B) A local educational agency shall not be entitled to receive a grant under this subchapter for any fiscal year unless the number of children under this subsection, with respect to such agency, is at least ten or constitutes at least 50 per centum of its total enrollment. The requirements of this subparagraph shall not apply to any such agencies serving Indian children in Alaska, California, and Oklahoma or located on, or in proximity to, an Indian reservation.

(C) For the purposes of this subsection, the average per pupil expenditure for a local educational agency shall be the aggregate current expenditures, during the second fiscal year preceding the fiscal year for which the computation is made, of all of the local educational agencies in the State in which such agency is located, plus any direct current expenditures by such State for the operation of such agencies (without regard to the sources of funds from which either of such expenditures are made) divided by the aggregate number of children who were in average daily enrollment for whom such agencies provided free public education during such preceding fiscal year.

(b) Non-local educational agencies.

In addition to the sums appropriated for any fiscal year for grants to local educational agencies under this subchapter, there is hereby authorized to be appropriated for any fiscal year an amount not in excess of 10 per centum of the amount appropriated for payments on the basis of entitlements computed under subsection (a) of this section for that fiscal year, for the purpose of enabling the Commissioner to provide financial assistance to schools on or near reservations which are not local educational agencies or have not been local educational agencies for more than three years, in accordance with the appropriate provisions of this subchapter. (Sept. 30, 1950, ch. 1124, title III, § 303, as added June 23, 1972, Pub. L. 92–318, title IV, § 411(a), 86 Stat. 335, and amended Aug. 21, 1974, Pub. L. 93–380, title VI, §§ 631(b), 632(b), 88 Stat. 585, 586.)

AMENDMENTS

1974—Subsec. (a)(1). Pub. L. 93–380, § 631(b), substituted "1978" for "1975".

Subsec. (b). Pub. L. 93–380, § 632(b), increased percentage from "5" to "10".

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment of subsecs. (a)(1) and (b) by Pub. L. 93–380 effective on and after July 1, 1973, and July 1, 1974, respectively, see sections 631(c) and 632(d) of Pub. L. 93–380, set out as notes under section 887c of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 241dd, 241ff, 1221g of this title.

§ 241cc. Uses of Federal funds.

Grants under this subchapter may be used, in accordance with applications approved under section 241dd of this title, for—

(1) planning for and taking other steps leading to the development of programs specifically designed to meet the special educational needs of Indian children, including pilot projects designed to test the effectiveness of plans so developed; and

(2) the establishment, maintenance, and operation of programs, including, in accordance with special regulations of the Commissioner, minor remodeling of classroom or other space used for such programs and acquisition of necessary equipment, specially designed to meet the special educational needs of Indian children.

(Sept. 30, 1950, ch. 1124, title III, § 304, as added June 23, 1972, Pub. L. 92–318, title IV, § 411(a), 86 Stat. 335.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 241dd of this title.

§ 241dd. Applications for grants; conditions for approval; reports; amendments.

(a) A grant under this subchapter, except as provided in section 241bb(b) of this title, may be made only to a local educational agency or agencies, and only upon application to the Commissioner at such time or times, in such manner, and containing or accompanied by such information as the Commissioner deems necessary. Such application shall—

(1) provide that the activities and services for which assistance under this subchapter is sought will be administered by or under the supervision of the applicant;

(2) set forth a program for carrying out the purposes of section 241cc of this title, and provide for such methods of administration as are necessary for the proper and efficient operation of the program;

(3) in the case of an application for payments for planning, provide that (A) the planning was or will be directly related to programs or projects to be carried out under this subchapter and has resulted, or is reasonably likely to result, in a program or project which will be carried out under this subchapter, and (B) the planning funds are needed because of the innovative nature of the program or project or because the local educational agency lacks the resources necessary to plan adequately for programs and projects to be carried out under this subchapter,

(4) provide that effective procedures, including provisions for appropriate objective measurement of educational achievement will be adopted for evaluating at least annually the effectiveness of the programs and projects in meeting the special educational needs of Indian students;

(5) set forth policies and procedures which assure that Federal funds made available under this subchapter for any fiscal year will be so used as to supplement and, to the extent practical, increase the level of funds that would, in the absence of such Federal funds, be made available by the applicant for the education of Indian children and in no case supplant such funds;

(6) provide for such fiscal control and fund accounting procedures as may be necessary to assure proper disbursement of, and accounting for, Federal funds paid to the applicant under this subchapter; and

(7) provide for making an annual report and such other reports, in such form and containing such information, as the Commissioner may reasonably require to carry out his functions under this subchapter and to determine the extent to which funds provided under this subchapter have been effective in improving the educational opportunities of Indian students in the area served, and for keeping such record and for affording such access thereto as the Commissioner may find necessary to assure the correctness and verification of such reports.

(b) An application by a local educational agency or agencies for a grant under this subchapter may be approved only if it is consistent with the applicable provisions of this subchapter and—

(1) meets the requirements set forth in subsection (a) of this section;

(2) provides that the program or project for which application is made—

(A) will utilize the best available talents and resources (including persons from the Indian community) and will substantially increase the educational opportunities of Indian children in the area to be served by the applicant; and

(B) has been developed—

(i) in open consultation with parents of Indian children, teachers, and, where applicable, secondary school students, including public hearings at which such persons have

had a full opportunity to understand the program for which assistance is being sought and to offer recommendations thereon, and

(ii) with the participation and approval of a committee composed of, and selected by, parents of children participating in the program for which assistance is sought, teachers, and, where applicable, secondary school students of which at least half the members shall be such parents;

(C) sets forth such policies and procedures as will insure that the program for which assistance is sought will be operated and evaluated in consultation with, and the involvement of, parents of the children and representatives of the area to be served, including the committee established for the purposes of clause (2)(B)(ii).

(c) Amendments of applications shall, except as the Commissioner may otherwise provide by or pursuant to regulations, be subject to approval in the same manner as original applications. (Sept. 30, 1950, ch. 1124, title III, § 305, as added June 23, 1972, Pub. L. 92–318, title IV, § 411(a), 86 Stat. 336.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 241cc, 241ee of this title; title 25 section 456.

§ 241ee. Payments; limitations.

(a) The Commissioner shall, subject to the provisions of section 241ff of this title, from time to time pay to each local educational agency which has had an application approved under section 241dd of this title, an amount equal to the amount expended by such agency in carrying out activities under this application.

(b)(1) No payments shall be made under this subchapter for any fiscal year to any local educational agency in a State which has taken into consideration payments under this subchapter in determining the eligibility of such local educational agency in that State for State aid, or the amount of that aid, with respect to the free public education of children during that year or the preceding fiscal year.

(2) No payments shall be made under this subchapter to any local educational agency for any fiscal year unless the State educational agency finds that the combined fiscal effort (as determined in accordance with regulations of the Commissioner) of that agency and the State with respect to the provision of free public education by that agency for the preceding fiscal year was not less than such combined fiscal effort for that purpose for the second preceding fiscal year. (Sept. 30, 1950, ch. 1124, title III, § 306, as added June 23, 1972, Pub. L. 92–318, title IV, § 411(a), 86 Stat. 337.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 241ff of this title.

§ 241ff. Adjustments where necessitated by appropriations.

(a) If the sums appropriated for any fiscal year for making payments under this subchapter are not sufficient to pay in full the total amounts which all local educational agencies are eligible to receive under this subchapter for that fiscal year, the maximum amounts which all such agencies are eligible to receive under this subchapter for such fiscal year shall be ratably reduced. In case additional funds become available for making such payments for any fiscal year, during which the first sentence of this subsection is applicable, such reduced amounts shall be increased on the same basis as they were reduced.

(b) In the case of any fiscal year in which the maximum amounts for which local educational agencies are eligible have been reduced under the first sentence of subsection (a) of this section, and in which additional funds have not been made available to pay in full the total of such maximum amounts under the second sentence of such subsection, the Commissioner shall fix dates prior to which each local educational agency shall report to him on the amount of funds available to it, under the terms of section 241ee(a) of this title and subsection (a) of this section, which it estimates, in accordance with regulations of the Commissioner, that it will expend under approved applications. The amounts so available to any local educational agency, or any amount which would be available to any other local education agency, if it were to submit an approvable application therefor, which the Commissioner determines will not be used for the period of its availability, shall be available for allocation to those local educational agencies, in the manner provided in the second sentence of subsection (a) of this section, which the Commissioner determines will need additional funds to carry out approved applications, except that no local educational agency shall receive an amount under this sentence which, when added to the amount available to it under subsection (a) of this section, exceeds its entitlement under section 241bb of this title. (Sept. 30, 1950, ch. 1124, title III, § 307, as added June 23, 1972, Pub. L. 92–318, title IV, § 411(a). 86 Stat. 337.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 241ee of this title.

SUBCHAPTER IV.—GENERAL

§§ 242, 243.

Sections 301 and 302 of title III of act Sept. 30, 1950, redesignated sections 401 and 402 of title IV by Pub. L. 92–318, title IV, § 411(a), June 23, 1972, 86 Stat. 334.

§ 244. Definitions.

For the purposes of this chapter—

(1) The term "Federal property" means real property which is owned by the United States or is leased by the United States, and which is not subject to taxation by any State or any political subdivision of a State or by the District of Columbia. Such term includes (A) except for purposes of section 241 of this title, real property held in trust by the United States for individual Indians or Indian tribes, and real property held by individual Indians or Indian tribes which is subject to restrictions on alienation imposed by the United States, (B) for one year beyond the end of the fiscal year in which occurred the sale or transfer thereof by the United States, any property considered prior to such sale or transfer to be Federal property for the purposes of this chapter, (C) any low-rent housing (whether or not owned by the

United States) which is part of a low-rent housing project assisted under the United States Housing Act of 1937, section 516 of the Housing Act of 1949, or part B of title III of the Economic Opportunity Act of 1964, and (D) any school which is providing flight training to members of the Air Force under contractual arrangements with the Department of the Air Force at an airport which is owned by a State or a political subdivision of a State. Such term also includes any interest in Federal property (as defined in the foregoing provisions of this paragraph) under an easement, lease, license, permit, or other arrangement, as well as any improvements of any nature (other than pipelines or utility lines) on such property even though such interests or improvements are subject to taxation by a State or political subdivision of a State or by the District of Columbia. Notwithstanding the foregoing provisions of this paragraph, such term does not include any real property under the jurisdiction of the Post Office Department and used primarily for the provision of postal services. Real property which qualifies as Federal property under clause (A) of this paragraph shall not lose such qualification because it is used for a low-rent housing project.

* * * * *

(16) For purposes of subchapter II of this chapter, the "average per pupil expenditure" in a State, or in the United States, shall be the aggregate current expenditures, during the second fiscal year preceding the fiscal year for which the computation is made (or if satisfactory data for that year are not available at the time of computation, then during the most recent preceding fiscal year for which satisfactory data are available), of all local educational agencies as defined in paragraph (6)(B) of this section in the State, or in the United States (which for the purposes of this paragraph means the fifty States, and the District of Columbia), as the case may be, plus any direct current expenditures by the State for operation of such agencies (without regard to the source of funds from which either of such expenditures are made), divided by the aggregate number of children in average daily attendance to whom such agencies provided free public education during such preceding year.

(17) For the purposes of subchapter II of this chapter, "excess costs" means those costs directly attributable to programs and projects which exceed the average per pupil expenditure of a local educational agency in the most recent year for which satisfactory data are available for pupils in the grade or grades included in such programs or projects (but not including expenditures for any comparable State or local special programs for educationally deprived children or expenditures for bilingual programs or special education for handicapped children or children with specific learning disabilities, if such expenditures for bilingual education and special education are used to provide, to children of limited English-speaking ability and handicapped children, and children with specific learning disabilities who reside in subchapter I project areas, services which are comparable to those provided to similarly disadvantaged children residing in nonproject areas). (Sept. 30, 1950, ch. 1124, title IV, § 403, formerly § 9, 64 Stat. 1108, amended Aug. 8, 1953, ch. 402, § 10, 67 Stat. 536; Aug. 1, 1956, ch. 852, § 10, 70 Stat. 909; Aug. 3, 1956, ch. 915, title II, § 211, 70 Stat. 972; Aug. 12, 1958, Pub. L. 85–620, title II, § 205, 72 Stat. 560; June 25, 1959, Pub. L. 86–70, § 18(d)(4), 73 Stat. 145; July 12, 1960, Pub. L. 86–624, § 14(d)(4), 74 Stat. 414; Oct. 16, 1964, Pub. L. 88–665, title XI, § 1102(b), 78 Stat. 1109, renumbered title III, § 303, and amended Apr. 11, 1965, Pub. L. 89–10, title I, §§ 3(c)(1), 4(a)—(c), (d)(1), (e), 79 Stat. 35; Nov. 1, 1965, Pub. L. 89–313, § 6(c), 79 Stat. 1162; Nov. 3, 1966, Pub. L. 89–750, title I, § 117(a)(1), (b), title II, § 206, 80 Stat. 1198, 1199, 1213; Jan. 2, 1968, Pub. L. 90–247, title II, § 201, 81 Stat. 806; Apr. 13, 1970, Pub. L. 91–230, title II, § 203(b), 84 Stat. 156; renumbered title IV, § 403, June 23, 1972, Pub. L. 92–318, title IV, § 411(a), 86 Stat. 334; amended Aug. 21, 1974, Pub. L. 93–380, title I, § 101(a)(9)(K), title III, § 304(d)(1), 88 Stat. 501, 523.)

AMENDMENTS

1974—Subsec. (1). Pub. L. 93–380, § 304(d)(1), added end provision reading: "Real property which qualifies as Federal property under clause (A) of this paragraph shall not lose such qualification because it is used for a low-rent housing project."

Subsecs. (16), (17). Pub. L. 93–380, § 101(a)(9)(K), added subsecs. (16) and (17).

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment of par. (1) by Pub. L. 93–380 effective on and after sixtieth day after Aug. 21, 1974, except as otherwise specified hereunder, see section 2(c) of Pub. L. 93–380, set out as a note under section 241b of this title.

Subsecs. (16) and (17) of this section effective on and after July 1, 1974, see section 101(b) of Pub. L. 93–380, set out as a note under section 241b of this title.

POSTAL SERVICE PROPERTY AS FEDERAL PROPERTY

Pub. L. 92–277, § 2, Apr. 24, 1972, 86 Stat. 124, provided that: "All real property of the United States which was transferred to the United States Postal Service and was, prior to such transfer, treated as Federal property for purposes of the Act of September 30, 1950 (Public Law 874, Eighty-first Congress) [sections 236 to 244 of this title], shall continue to be treated as Federal property for such purpose for two years beyond the end of the fiscal year in which such transfer occurred."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 238, 240, 1228 of this title.

§ 246. State equalization plans; assistance to States.

(a) Reimbursement to States; submittal of plans to Commissioner; statement of purpose; guidelines: publication and republication in Federal Register, submittal to President of Senate and Speaker of House; new guidelines; resolution of disapproval.

(1) Any State desiring to develop a plan for a program of financial assistance to local educational agencies in that State to assist such agencies in the provision of free public education may, upon application therefor, be reimbursed for the development or administration of such a plan in accordance with the provisions of this section. Each plan developed pursuant to, or which meets the requirements of, this section shall be submitted to the Commissioner not later than July 1, 1977, and shall, subject to the provisions of this section, be consistent with the guidelines developed pursuant to paragraph (3).

Such plan shall be designed to implement a program of State aid for free public education—

(A) which is consistent with such standards as may be required by the fourteenth article of amendment to the Constitution; and

(B) the primary purpose of which is to achieve equality of educational opportunity for all children in attendance at the schools of the local educational agencies of the State.

(2) The Commissioner shall develop guidelines defining the principles set forth in clauses (A) and (B) of paragraph (1). Not later than April 1, 1975, the Commissioner shall publish such guidelines in the Federal Register and submit such guidelines to the President of the Senate and the Speaker of the House of Representatives.

(3) During the sixty-day period following such publication, the Commissioner shall provide interested parties with an opportunity to present views and make recommendations with respect to such guidelines. Not later than July 1, 1975, the Commissioner shall (A) republish such guidelines in the Federal Register, together with any amendments thereto as may be merited and (B) publish in the Federal Register a summary of the views and recommendations presented by interested parties under the preceding sentence, together with the comments of the Commissioner respecting such views and recommendations.

(4)(A) The guidelines published in accordance with paragraph (3), together with any amendments, shall, not later than July 1, 1975, be submitted to the President of the Senate and the Speaker of the House of Representatives. If either the Senate or the House of Representatives adopts, prior to December 1, 1975, a resolution of disapproval of such guidelines, the Commissioner shall, prior to December 15, 1975, publish new guidelines. Such new guidelines shall take into consideration such views and policies as may be made in connection with such resolution and shall become effective thirty days after such publication.

(B) A resolution of disapproval under this paragraph may be in the form of a resolution of either the Senate or the House of Representatives or such resolution may be in the form of a concurrent resolution of both Houses. If such a resolution of disapproval is in the form of a concurrent resolution, the new guidelines published in accordance with the second sentence of subparagraph (A) of this paragraph shall be consistent with such policies as may be established by such concurrent resolution.

(C) If each of the Houses adopts a separate resolution with respect to guidelines submitted in accordance with this paragraph for any year and in connection therewith makes policy statements which differ substantially, then such differences may be resolved by the adoption of a concurrent resolution by both Houses. Any such concurrent resolution shall be deemed to be adopted in accordance with subparagraph (B).

(b) Guidelines; reasons for State rejection.

Any State developing a plan pursuant to this section may reject any guidelines developed and published under subsection (a) of this section if such State, as a provision of its plan, states the reasons for each such rejection.

(c) Reimbursement to States; limitation; "State" defined.

(1) Each State that develops a plan under this section shall be reimbursed for the reasonable amounts expended by the State in the development or administration of such a plan based upon the ratio of the population of that State to the population of all States except that no State shall receive less than $100,000 and no State shall receive more than $1,000,000.

(2) For the purposes of this section the term "State" means the fifty States. (Pub. L. 93–380, title VIII, § 842, Aug. 21, 1974, 88 Stat. 610.)

CODIFICATION

Section was enacted as a part of Education Amendments of 1974, and not as part of Educational Agencies Financial Aid Act, which is classified to this chapter.

EFFECTIVE DATE

Section effective on and after sixtieth day after Aug. 21, 1974, see section 2(c) of Pub. L. 93–380, set out as a note under section 241b of this title.

Chapter 15.—STUDIES AND RESEARCH ON PROBLEMS IN EDUCATION

§§ 331 to 332b. Omitted.

Section 331, acts July 26, 1954, ch. 576, § 1, 68 Stat. 533; Apr. 11, 1965, Pub. L. 89–10, title IV, § 401, 79 Stat. 44, related to Congressional declaration of purpose.

Section 331a, act July 26, 1954, ch. 576, § 2, as added Apr. 11, 1965, Pub. L. 89–10, title IV, § 401, 79 Stat. 44, and amended Nov. 3, 1966, Pub. L. 89–750, title I, § 141, 80 Stat. 1202; Jan. 2, 1968, Pub. L. 90–247, title VII, § 706, 81 Stat. 820; Apr. 13, 1970, Pub. L. 91–230, title I, § 143(c), title VIII, §§ 808, 809(c), 84 Stat. 151, 193, 194; June 23, 1972, Pub. L. 92–318, title III, § 303(a)(1), 86 Stat. 333, authorized grants, contracts, and jointly financed arrangements for exemplary projects and management studies, provided for an annual report to Congress, and provided for establishment of an Advisory Council on Research and development, its membership, and appointment of a Chairman.

Section 332, act July 26, 1954, ch. 576, § 3, formerly 2, 68 Stat. 533, renumbered and amended Apr. 11, 1965, Pub. L. 89–10, title IV, §§ 401, 402, 79 Stat. 44, 46; June 23, 1972, Pub. L. 92–318, title III, § 303(a)(2), 86 Stat. 333, authorized appropriations for fiscal years ending June 30, 1973, 1974, and 1975 of $58,000,000; $68,000,000; and $78,000,000 respectively.

Section 332a, act July 26, 1954, ch. 576, § 4, as added Apr. 11, 1965, Pub. L. 89–10, title IV, § 403, 79 Stat. 46, and amended Nov. 3, 1966, Pub. L. 89–750, title I, § 142, 80 Stat. 1203; Apr. 13, 1970, Pub. L. 91–230, title IV, § 401(g)(2), title VIII, § 810, 84 Stat. 174, 194, related to construction of regional facilities, authorizing appropriation of $100,000,000 in the aggregate for fiscal years ending June 30, 1966, through 1970, in subsec. (a); subsec. (b) relating to findings of Commissioner, grants for construction, transfer of title, and operation of facility; subsec. (c), as originally enacted, relating to labor standards; subsec. (d) relating to methods of payment, and subsec. (e) defining "research and related purposes".

Section 332b, act July 26, 1954, ch. 576, § 5, as added Apr. 11, 1965, Pub. L. 89–10, title IV, § 403, 79 Stat. 47, and amended Nov. 3, 1966, Pub. L. 89–750, title I, § 143, 80 Stat. 1203, provided for definitions of "State", "State educational agency", "nonprofit", and "construction" and "cost of construction".

Sections constituted the Cooperative Research Act and terminated on and after July 1, 1975, under provisions of section 402(c)(1) of Pub. L. 93–380. See provisions of Special Projects Act, section 1851 et seq. of this title.

Chapter 16.—PUBLIC LIBRARY SERVICES AND CONSTRUCTION

SUBCHAPTER IV.—OLDER READERS SERVICES [NEW]

Sec.
361. Grants to States for older readers services.
362. Uses of Federal funds; Federal share.
363. State annual program for library services for the elderly.
364. Administrative coordination with programs for older Americans.

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in section 823 of this title; title 40 App., section 214.

§ 351a. Definitions.

The following definitions shall apply to this chapter:

* * * * *

(5) "Public library" means a library that serves free of charge all residents of a community, district, or region, and receives its financial support in whole or in part from public funds. Such term also includes a research library, which, for the purposes of this sentence, means a library which—

(A) makes its services available to the public free of charge;

(B) has extensive collections of books, manuscripts, and other materials suitable for scholarly research which are not available to the public through public libraries;

(C) engages in the dissemination of humanistic knowledge through services to readers, fellowships, educational and cultural programs, publication of significant research, and other activities; and

(D) is not an integral part of an institution of higher education.

* * * * *

(As amended Oct. 19, 1973, Pub. L. 93–133, § 4(a), 87 Stat. 466.)

AMENDMENTS

1973—Par. (5) Pub. L. 93–133 expanded the definition of "Public library" to include research libraries.

EFFECTIVE DATE OF 1973 AMENDMENT

Section 4(b) of Pub. L. 93–133 provided that: "The amendment made by subsection (a) [amending par. (5) of this section] shall be effective on June 30, 1973, and only with respect to appropriations for fiscal years beginning after such date."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 351d, 351e of this title.

§ 351b. Authorization of appropriations; availability of appropriations.

(a) For the purpose of carrying out the provisions of this chapter the following sums are authorized to be appropriated:

* * * * *

(4) For the purpose of making grants to States to enable them to carry out public library service programs for older persons authorized by subchapter IV of this chapter, there are authorized to be appropriated such sums as may be necessary for the fiscal year ending June 30, 1973, the fiscal year ending June 30, 1974, the fiscal year ending June 30, 1975, and the fiscal year ending June 30, 1976.

* * * * *

(As amended May 3, 1973, Pub. L. 93–29, title VIII, § 801(b), 87 Stat. 58.)

AMENDMENTS

1973—Subsec. (a)(4). Pub. L. 93–29 added par. (4).

EFFECTIVE DATE OF 1973 AMENDMENT

Subsec. (a)(4) of this section effective after June 30, 1973, see section 801(e) of Pub. L. 93–29, set out as a note under section 361 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 351c, 351e, 352, 353, 354, 355c, 355e–1, 355e–2, 362, 363 of this title.

§ 351c. Allotments to States; minimum allotment; population basis for distribution of remaining funds; reallotment.

(a)(1) From the sums appropriated pursuant to paragraph (1), (2), (3), or (4) of section 351b(a) of this title for any fiscal year, the Commissioner shall allot the minimum allotment, as determined under paragraph (3) of this subsection, to each State. Any sums remaining after minimum allotments have been made shall be allotted in the manner set forth in paragraph (2) of this subsection.

(2) From the remainder of any sums appropriated pursuant to paragraph (1), (2), (3), or (4) of section 351b(a) of this title for any fiscal year, the Commissioner shall allot to each State such part of such remainder as the population of the State bears to the population of all the States.

(3) For the purposes of this subsection, the "minimum allotment" shall be—

(A) with respect to appropriations for the purposes of subchapter I of this chapter, $200,000 for each State, except that it shall be $40,000 in the case of Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands;

(B) with respect to appropriations for the purposes of subchapter II of this chapter, $100,000 for each State, except that it shall be $20,000 in the case of Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands;

(C) with respect to appropriations for the purposes of subchapter III of this chapter, $40,000 for each State, except that it shall be $10,000 in the case of Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands; and

(D) with respect to appropriations for the purposes of subchapter IV of this chapter, $40,000 for each State, except that it shall be $10,000 in the case of Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands.

If the sums appropriated pursuant to paragraph (1), (2), (3), or (4) of section 351b(a) of this title for any fiscal year are insufficient to fully satisfy the aggregate of the minimum allotments for that purpose, each of such minimum allotments shall be reduced ratably.

(4) The population of each State and of all the States shall be determined by the Commissioner on the basis of the most recent satisfactory data available to him.

(5) There is hereby authorized for the purpose of evaluation (directly or by grants or contracts) of

programs authorized by this chapter, such sums as Congress may deem necessary for any fiscal year.

(b) The amount of any State's allotment under subsection (a) of this section for any fiscal year from any appropriation made pursuant to paragraph (1), (2), (3), or (4) of section 351b(a) of this title which the Commissioner deems will not be required for the period and the purpose for which such allotment is available for carrying out the State's annual program shall be available for reallotment from time to time on such dates during such year as the Commissioner shall fix. Such amount shall be available for reallotment to other States in proportion to the original allotments for such year to such States under subsection (a) of this section but with such proportionate amount for any of such other State being reduced to the extent that it exceeds the amount which the Commissioner estimates the State needs and will be able to use for such period of time for which the original allotments were made and the total of such reductions shall be similarly reallotted among the States not suffering such a reduction. Any amount reallotted to a State under this subsection for any fiscal year shall be deemed to be a part of its allotment for such year pursuant to subsection (a) of this section. (As amended May 3, 1973, Pub. L. 93–29, title VIII, § 801 (c), 87 Stat. 58.)

CODIFICATION

Another section 801(c) of Pub. L. 93–29 amended section 351d(a) of this title. See 1973 Amendment note under such section 351d.

AMENDMENTS

1973—Subsec. (a). Pub. L. 93–29, § 801(c)(1)–(4), inserted reference to par. (4) of section 351b(a) of this title in pars. (1), (2), and (3) last sentence, and added subpar. (D) to par. (3).

Subsec. (b). Pub. L. 93–29, § 801(c)(5), inserted reference to par. (4) of section 351b(a) of this title.

EFFECTIVE DATE OF 1973 AMENDMENT

Amendment by Pub. L. 93–29 effective after June 30, 1973, see section 801(e) of Pub. L. 93–29, set out as a note under section 361 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 351b, 351e, 353, 355b, 355e–1, 362 of this title.

§ 351d. State plans and programs.

(a) Prerequisites for allotment of basic State plan in effect, submission of annual program, and establishment of State Advisory Council on Libraries.

Any State desiring to receive its allotment for any purpose under this chapter for any fiscal year shall (1) have in effect for such fiscal year a basic State plan as defined in section 351a(11) of this title and meeting the requirements set forth in subsection (b) of this section, (2) submit an annual program as defined in section 351a(13) of this title for the purposes for which allotments are desired, meeting the appropriate requirements set forth in subchapters I, II, III and IV of this chapter, and shall submit (no later than July 1, 1972) a long-range program as defined in section 351a(12) of this title for carrying out the purposes of this chapter as specified in subsection (d) of this section, and (3) establish a State Advisory Council on Libraries which meets the requirements of section 351a(8) of this title.

(b) Provisions of plan.

A basic State plan under this chapter shall—

* * * * *

(4) set forth the criteria to be used in determining the adequacy of public library services in geographical areas and for groups of persons in the State, including criteria designed to assure that priority will be given to programs or projects which serve urban and rural areas with high concentration of low-income families, and to programs and projects which serve areas with high concentrations of persons of limited English-speaking ability (as defined in section 880b–1(a) of this title).

* * * * *

(As amended May 3, 1973, Pub. L. 93–29, title VIII, § 801(c), 87 Stat. 59; Aug. 21, 1974, Pub. L. 93–380, title VIII, § 841(b), 88 Stat. 609.)

CODIFICATION

Another section 801(c) of Pub. L. 93–29 amended section 351c of this title. See 1973 Amendment note under such section 351c.

AMENDMENTS

1974—Subsec. (b)(4). Pub. L. 93–380 required basic State plan to include criteria to assure that priority will be given to programs and projects which serve areas with high concentrations of persons of limited English-speaking ability (as defined in section 880b–1(a) of this title).

1973—Subsec. (a). Pub. L. 93–29 inserted reference to subchapter IV of this chapter.

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment by Pub. L. 93–380 effective on and after July 1, 1974, see section 841(c) of Pub. L. 93–380, set out as a note under section 1242 of this title.

EFFECTIVE DATE OF 1973 AMENDMENT

Amendment by Pub. L. 93–29 effective after June 30, 1973, see section 801(e) of Pub. L. 93–29, set out as a note under section 361 of this title.

SECTION REFERRED TO IN OTHER SECTION

This section is referred to in sections 351a, 351e, 352, 353, 354, 355a, 355c, 355e, 355e–2, 361, 363, 880b–1 of this title.

§ 351e. Payments to States; prerequisites; Federal share; promulgation by Commissioner of Federal share.

(a) From the allotments available therefor under section 351c of this title from appropriations pursuant to paragraph (1), (2), (3), or (4) of section 351b(a) of this title, the Commissioner shall pay to each State which has a basic State plan approved under section 351d(a)(1) of this title, an annual program and a long-range program as defined in section 351a (12) and (13) of this title an amount equal to the Federal share of the total sums expended by the State and its political subdivisions in carrying out such plan, except that no payments shall be made from appropriations pursuant to such paragraph (1) for the purposes of subchapter I of this chapter to any State (other than the Trust Territory of the Pacific Island) for any fiscal year unless the Commissioner determines that—

* * * * *

(b)(1) For the purpose of this section, the "Federal share" for any State shall be, except as is provided otherwise in subchapter III and subchapter IV

of this chapter, 100 per centum less the State percentage, and the State percentage shall be that percentage which bears the same ratio to 50 per centum as the per capita income of such State bears to the per capita income of all the States (excluding Puerto Rico, Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands), except that (A) the Federal share shall in no case be more than 66 per centum, or less than 33 per centum, and (B) the Federal share for Puerto Rico, Guam, American Samoa, and the Virgin Islands shall be 66 per centum, and (C) the Federal share for the Trust Territory of the Pacific Islands shall be 100 per centum.

* * * * *

(As amended May 3, 1973, Pub. L. 93–29, title VIII, § 801(d), 87 Stat. 59.)

AMENDMENTS

1973—Subsec. (a). Pub. L. 93–29, § 801(d)(1), inserted reference to par. (4) of section 351(a) of this title.

Subsec. (b)(1). Pub. L. 93–29, § 801(d)(2), inserted reference to subchapter IV of this chapter.

SUBCHAPTER I.—LIBRARY SERVICES

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 351b, 351c, 351d, 351e of this title.

SUBCHAPTER II.—PUBLIC LIBRARY CONSTRUCTION

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 351b, 351c, 351d of this title; title 42 section 4519.

SUBCHAPTER IV.—OLDER READERS SERVICES [NEW]

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 351b, 351c, 351d, 351e of this title.

§ 361. Grants to States for older readers services.

The Commissioner shall carry out a program of making grants to States which have an approved basic State plan under section 351d of this title and have submitted a long-range program and an annual program under section 363 of this title for library services for older persons. (June 19, 1956, ch. 407, title IV, § 401, as added May 3, 1973, Pub. L. 93–29, title VIII, § 801(a), 87 Stat. 57.)

EFFECTIVE DATE

Section 801(e) of Pub. L. 93–29 provided that: "The chapter], (b) [enacting section 351b(a)(4) of this title], and (c) [amending sections 351c and 351d(a) of this title] of this section shall be effective after June 30, 1973."

§ 362. Uses of Federal funds; Federal share.

(a) Funds appropriated pursuant to paragraph (4) of section 351b(a) of this title shall be available for grants to States from allotments under section 351c (a) of this title for the purpose of carrying out the Federal share of the cost of carrying out State plans submitted and approved under section 363 of this title. Such grants shall be used for (1) the training of librarians to work with the elderly; (2) the conduct of special library programs for the elderly; (3) the purchase of special library materials for use by the elderly; (4) the payment of salaries for elderly persons who wish to work in libraries as assistants on programs for the elderly; (5) the provision of in-home visits by librarians and other library personnel to the elderly; (6) the establishment of outreach programs to notify the elderly of library services available to them; and (7) the furnishing of transportation to enable the elderly to have access to library services.

(b) For the purposes of this subchapter, the Federal share shall be 100 per centum of the cost of carrying out the State plan. (June 19, 1956, ch. 407, title IV, § 402, as added May 3, 1973, Pub. L. 93–29, title VIII, § 801(a), 87 Stat. 57.)

EFFECTIVE DATE

Section effective after June 30, 1973, see section 801(e) of Pub. L. 93–29, set out as a note under section 361 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 363 of this title.

§ 363. State annual program for library services for the elderly.

Any State desiring to receive a grant from its allotment for the purposes of this subchapter for any fiscal year shall, in addition to having submitted, and having had approved, a basic State plan under section 351d of this title, submit for that fiscal year an annual program for library services for older persons. Such program shall be submitted at such time, in such form, and contain such information as the Commissioner may require by regulation and shall—

(1) set forth a program for the year submitted under which funds paid to the State from appropriations pursuant to paragraph (4) of section 351 b(a) of this title will be used, consistent with its long-range program for the purposes set forth in section 362 of the title, and

(2) include an extension of the long-range program taking into consideration the results of evaluations.

(June 19, 1956, ch. 407, title IV, § 403, as added May 3, 1973, Pub. L. 93–29, title VIII, § 801(a), 87 Stat. 58.)

EFFECTIVE DATE

Section effective after June 30, 1973, see section 801(e) of Pub. L. 93–29, set out as a note under section 361 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 361, 362 of this title.

§ 364. Administrative coordination with programs for older Americans.

In carrying out the program authorized by this subchapter, the Commissioner shall consult with the Commissioner of the Administration on Aging and the Director of ACTION for the purpose of coordinating where practicable, the programs assisted under this subchapter with the programs assisted under the Older Americans Act of 1965. (June 19, 1956, ch. 407, title IV, § 404, as added May 3, 1973, Pub. L. 93–29, title VIII, § 801(a), 87 Stat. 58.)

REFERENCES IN TEXT

Older Americans Act of 1965, referred to the text, is classified to chapter 35 of Title 42, The Public Health and Welfare.

EFFECTIVE DATE

Section effective after June 30, 1973, see section 801(e) of Pub. L. 93–29, set out as a note under section 361 of this title.

Chapter 17.—NATIONAL DEFENSE EDUCATION PROGRAM

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in section 1232a of this title; title 29 section 50; title 40 App., section 214.

SUBCHAPTER II.—LOANS TO STUDENTS IN INSTITUTIONS OF HIGHER LEARNING

§ 421. Authorization of appropriations.

For the purpose of enabling the Commissioner to stimulate and assist in the establishment at institutions of higher education of funds for the making of low-interest loans to students in need thereof to pursue their courses of study in such institutions, there are authorized to be appropriated $47,500,000 for the fiscal year ending June 30, 1959, $75,000,000 for the fiscal year ending June 30, 1960, $82,500,000 for the fiscal year ending June 30, 1961, $90,000,000 each for the fiscal year ending June 30, 1962, and the next fiscal year, $125,000,000 for the fiscal year ending June 30, 1964, $163,300,000 for the fiscal year ending June 30, 1965, $179,300,000 for the fiscal year ending June 30, 1966, $190,000,000 for the fiscal year ending June 30, 1967, $225,000,000 for the fiscal year ending June 30, 1968, $210,000,000 for the fiscal year ending June 30, 1969, $325,000,000 for the fiscal year ending June 30, 1970, and $375,000,000 each for the fiscal year ending June 30, 1971, and for the fiscal year ending June 30, 1972, and there are further authorized to be appropriated such sums for the fiscal year ending June 30, 1972, and each of the next three fiscal years as may be necessary to enable students who have received loans for school years ending prior to July 1, 1971, to continue or complete their education. Sums appropriated under this section for any fiscal year shall be available, in accordance with agreements between the Commissioner and institutions of higher education, for payment of Federal capital contributions which, together with contributions from the institutions, shall be used for establishment and maintenance of student loan funds. (As amended Pub. L. 92–318, title I, § 137(a)(1), June 23, 1972, 86 Stat. 272.)

AMENDMENTS

1972—Pub. L. 92–318 substituted "$375,000,000 each for the fiscal year ending June 30, 1971, and for the fiscal year ending June 30, 1972", for "$375,000,000 for the fiscal year ending June 30, 1971".

EFFECTIVE DATE OF 1972 AMENDMENT

Section 137(a)(2) of Pub. L. 92–318 provided that: "The amendments made by paragraph (1) [to this section] shall be effective after June 30, 1971."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 422, 423 of this title.

§ 422. Allotments to States.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1087bb of this title.

§ 425. Terms of loans.

REFERENCES IN TEXT

Title VIII of the Economic Opportunity Act of 1964, referred to in subsec. (b)(2) was repealed, and is now covered by section 4951 et seq. of Title 42, The Public Health and Welfare.

CANCELLATION OF LOANS

Section 137(c) of Pub. L. 92–318, title I, June 23, 1972, 86 Stat. 279, provided that: "In the case of a loan made before July 1, 1972, under title II of the National Defense Education Act of 1958 [this subchapter] not to exceed 50 per centum of such loan (1) shall be canceled for service by the borrower as a full-time teacher in a public or other nonprofit elementary or secondary school in a State, in an institution of higher education, or in an elementary or secondary school overseas of the Armed Forces of the United States at the rate of 10 per centum of the total amount of such loan for each complete academic year of such service, except that (A) such rate shall be 15 per centum for each complete academic year of service as a full-time teacher in a public or other nonprofit elementary or secondary school which is in the school district of a local educational agency which is eligible in such year for assistance pursuant to title I of the Elementary and Secondary Education Act of 1965, as amended [section 241a et seq. of this title], and which for purposes of this paragraph and for that year has been determined by the Commissioner (pursuant to regulations and after consultation with the State educational agency of the State in which the school is located) to be a school in which there is a high concentration of students from low-income families, except that (unless all of the schools so determined are schools in which the enrollment of children described in clause (A), (B), or (C) of section 103(a)(2) of such title [section 241c(a)(2) of this title] (using a low-income factor of $3,000) exceeds 50 per centum of the total enrollment of the school) the Commissioner shall not make such determination with respect to more than 25 per centum of the total of the public and other nonprofit elementary and secondary schools in any one State for any one year, (B) such rate shall be 15 per centum for each complete academic year of service as a full-time teacher of handicapped children (including mentally retarded, hard of hearing, deaf, speech impaired, visually handicapped, seriously emotionally disturbed, or other health impaired children who by reason thereof require special education) in a public or other nonprofit elementary or secondary school system, and (C) for the purposes of any cancellation pursuant to clause (A) or (B), an additional 50 per centum of any such loan may be canceled, and (2) shall be canceled for service by the borrower after June 30, 1970, as a member of the Armed Forces of the United States at the rate of 12½ per centum of the total amount of such loan for each year of consecutive service, but only if such loan was made after April 13, 1970."

§ 426. Repealed. Pub. L. 92–318, title I, § 137(d)(2), June 23, 1972, 86 Stat. 280.

Section, Pub. L. 85–864, title II, § 206, Sept. 2, 1958, 72 Stat. 1586; Pub. L. 87–349, title II, § 201(a), Oct. 3, 1961, 75 Stat. 759; Pub. L. 88–210, title II, § 202(e), formerly § 22(e), Dec. 18, 1963, 77 Stat. 416, renumbered Pub. L. 90–576, title I, § 101(a)(1), Oct. 16, 1968, 82 Stat. 1064; Pub. L. 88–665, title II, § 206, Oct. 16, 1964, 78 Stat. 1102; Pub. L. 90–575, title I, § 171(c), Oct. 16, 1968, 82 Stat. 1034, provided for distributions of assets from student loan funds, and is now covered by section 1087ff of this title.

EFFECTIVE DATE OF REPEAL

Section 137(d)(2) of Pub. L. 92–318 provided that this section shall be stricken upon enactment of Pub. L. 92–318, which was approved June 23, 1972.

SUBCHAPTER III.—FINANCIAL ASSISTANCE FOR STRENGTHENING INSTRUCTION IN ACADEMIC SUBJECTS

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 1801, 1821 of this title.

PART A.—GRANTS TO STATES

§ 441. Authorization of appropriations.

There are hereby authorized to be appropriated $70,000,000 for the fiscal year ending June 30, 1959, and for each of the five succeeding fiscal years, $90,000,000 for the fiscal year ending June 30, 1965, $100,000,000 for the fiscal year ending June 30, 1966, and for the succeeding fiscal year, $110,000,000 for each of the fiscal years ending June 30, 1968, and June 30, 1969, $120,500,000 for the fiscal year ending June 30, 1970, and $130,500,000 for each of the fiscal years ending prior to July 1, 1977, for (1) making payments to State educational agencies under this part for the acquisition of equipment and for minor remodeling, described in paragraph (1) of section 443(a) of this title, and (2) making loans authorized in section 445 of this title. There are also authorized to be appropriated $5,000,000 for the fiscal year ending June 30, 1959, and for each of the five succeeding fiscal years, and $10,000,000 for each of the succeeding fiscal years ending prior to July 1, 1977, for making payments to State educational agencies under this part to carry out the programs described in paragraph (5) of section 443(a) of this title. Notwithstanding the preceding two sentences, no funds are authorized to be appropriated for obligation during any year for which funds are available for obligation for carrying out part B of title IV of the Elementary and Secondary Education Act of 1965. (As amended Pub. L. 92–318, title V, § 502, June 23, 1972, 86 Stat. 345; Pub. L. 93–380, title VI, § 651(a), Aug. 21, 1974, 88 Stat. 588.)

REFERENCES IN TEXT

Part B of title IV of Elementary and Secondary Education Act of 1965, referred to in text, is classified to section 1821 of this title.

CODIFICATION

First sentence reading in part "$130,500,000 for each of the fiscal years ending prior to July 1, 1977" conforms to intent of Congress as manifested in Pub. L. 93–380 which substituted "for each of the fiscal years ending prior to" for "for the fiscal year ending" which had been amended by Pub. L. 92–318, substituting "for each of the succeeding fiscal years ending prior to" for "for the fiscal year ending".

AMENDMENTS

1974—Pub. L. 93–380 substituted "1977" for "1975" in two instances and "for each of the fiscal years ending prior to" for "for each of the succeeding fiscal years ending prior to" after "$130,500,000" in first sentence [see Codification note], and provided that notwithstanding the preceding two sentences, no funds were authorized to be appropriated for obligation during any year for which funds were available for obligation for carrying out part B of title IV of the Elementary and Secondary Education Act of 1965.

1972—Pub. L. 92–318 substituted "for each of the succeeding fiscal years ending prior to July 1, 1975" for "for the fiscal year ending June 30, 1971" and "July 1, 1975" for "July 1, 1971".

EFFECTIVE DATE OF 1974 AMENDMENT

Section 651(b) of Pub. L. 93–380 provided that: "The amendment made by this section [to this section] shall be effective on and after July 1, 1974."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 403, 442, 445 of this title.

§ 445. Loans to nonprofit private schools.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 441, 442, 1801, 1821 of this title.

SUBCHAPTER VI.—LANGUAGE DEVELOPMENT

§ 511. Language and area centers and programs.

(a) Contract authority.

The Secretary is authorized to make grants to or contracts with institutions of higher education for the purposes of establishing, equipping, and operating graduate and undergraduate centers and programs for the teaching of any modern foreign language, for instruction in other fields needed to provide a full understanding of the areas, regions, or countries in which such language is commonly used, or for research and training in international studies and the international aspects of professional and other fields of study. Any such grant or contract may cover all or part of the cost of the establishment or operation of a center or program, including the costs of faculty, staff, and student travel in foreign areas, regions, or countries, and the costs of travel of foreign scholars to teach of conduct research, and shall be made on such conditions as the Secretary finds necessary to carry out the purposes of this section.

(b) Stipends.

The Secretary is also authorized to pay stipends to individuals undergoing advanced training in any center or under any program receiving Federal financial assistance under this subchapter, including allowances for dependents and for travel for research and study here and abroad, but only upon reasonable assurance that the recipients of such stipends will, on completion of their training, be available for teaching service in an institution of higher education or elementary or secondary school, or such other service of a public nature as may be permitted in the regulations of the Secretary.

(c) Restriction.

No funds may be expended under this subchapter for undergraduate travel except in accordance with rules prescribed by the Secretary setting forth policies and procedures to assure that Federal funds made available for such travel are expended as part of a formal program of supervised study. (As amended Pub. L. 92–318, title I, § 182(a), June 23, 1972, 86 Stat. 311.)

AMENDMENTS

1972—Subsec. (a). Pub. L. 92–318 deleted provisions limiting authorization of the Secretary during the period beginning July 1, 1958, and ending with the close of June 30, 1971, authorized the equipment of the centers, described the former simple centers as graduate and undergraduate centers, provided for instruction for research and training in international studies and the international aspects of professional and other fields of study, deleted former provision for determination by the Secretary of need for individuals trained in the language in the Federal Government or by business, industry, or education in the United States, deleted specific enumeration of the fields of history, political science, linguistics, economics, sociology, geography, and anthropology, and included the costs of faculty and student travel and travel of foreign scholars to conduct research.

Subsec. (b). Pub. L. 92-318 deleted ", during the period beginning July 1, 1958, and ending with the close of June 30, 1971," following "is authorized" and substituted "advanced training in any center or under any program receiving Federal financial assistance under this subchapter" for "advanced training in any modern foreign language (with respect to which he makes the determination under subsection (a) of this section), and other fields needed for a full understanding of the area, region, or country in which such language is commonly used, at any short-term or regular session of any institution of higher education", "travel for research and study here and abroad" for "travel to and from their places of residence", and "available for teaching service in an institution of higher education or elementary or secondary school, or such other service of a public nature as may be permitted in the regulations of the Secretary" for "available for teaching a modern foreign language in an institution of higher education or for such other service of a public nature as may be permitted in regulations of the Secretary".

Subsec. (c). Pub. L. 92-318 added subsec. (c).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 581 of this title.

§ 513. Authorization of appropriations.

There are hereby authorized to be appropriated $8,000,000 for the fiscal year ending June 30, 1964, $13,000,000 for the fiscal year ending June 30, 1965, $14,000,000 for the fiscal year ending June 30, 1966, $16,000,000 for the fiscal year ending June 30, 1967, $18,000,000 for the fiscal year ending June 30, 1968, $16,050,000 for the fiscal year ending June 30, 1969, $30,000,000 for the fiscal year ending June 30, 1970, $38,500,000 for each of the fiscal years ending June 30, 1971, and June 30, 1972, $50,000,000 for the fiscal year ending June 30, 1973, and $75,000,000 for each of the fiscal years ending June 30, 1974, and June 30, 1975, to carry out the provisions of this subchapter. (As amended Pub. L. 92-318, title I, § 182(b), June 23, 1972, 86 Stat. 312.)

AMENDMENTS

1972—Pub. L. 92-318 authorized appropriations of $38,500,000, $50,000,000, $75,000,000, and $75,000,000 for fiscal years ending June 30, 1972, 1973, 1974, and 1975.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 581 of this title.

SUBCHAPTER VII.—RESEARCH AND EXPERIMENTATION IN MORE EFFECTIVE UTILIZATION OF TELEVISION, RADIO, MOTION PICTURES, AND RELATED MEDIA FOR EDUCATIONAL PURPOSES

§ 561. Establishment of the Advisory Committee.

TERMINATION OF ADVISORY COMMITTEES

Advisory Committees in existence on January 5, 1973, to terminate not later than the expiration of the two-year period following January 5, 1973, unless, in the case of a committee established by the President or an officer of the Federal Government, such committee is renewed by appropriate action prior to the expiration of such two-year period, or in the case of a committee established by the Congress, its duration is otherwise provided by law, see sections 3(2) and 14 of Pub. L. 92-463, Oct. 6, 1972, 86 Stat. 770, 776, set out in the Appendix to Title 5, Government Organization and Employees.

Chapter 19.—SCHOOL CONSTRUCTION IN AREAS AFFECTED BY FEDERAL ACTIVITIES

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in section 1232a of this title; title 43 section 1620.

§ 633. Dates for filing applications; priorities.

The Commissioner shall from time to time set dates by which applications for payments under this chapter with respect to construction projects must be filed, except that the last such date with respect to applications for payments on account of children referred to in paragraphs (2) or (3) of section 635 (a) of this title shall be not later than June 30, 1978. The Commissioner shall by regulation prescribe an order of priority, based on relative urgency of need, to be followed in approving applications in the event the funds appropriated under this chapter and remaining available on any such date for payment to local educational agencies are less than the Federal share of the cost of the projects with respect to which applications have been filed prior to such date (and for which funds under this chapter have not already been obligated). Only applications meeting the conditions for approval under this chapter (other than section 636(b)(2)(C) of this title) shall be considered applications for purposes of the preceding sentence. Such order of priority shall provide that applications for payments based upon increases in the number of children residing on, or residing with a parent employed on, property which is part of a low-rent housing project assisted under the United States Housing Act of 1937 shall not be approved for any fiscal year until all other applications under paragraphs (2) and (3) of subsection (a) of section 635 of this title have been approved for that fiscal year. (As amended Aug. 21, 1974, Pub. L. 93-380, title III, § 301(a)(1), 88 Stat. 521.)

AMENDMENTS

1974—Pub. L. 93-380 substituted "1978" for "1973".

EFFECTIVE DATE OF 1974 AMENDMENT

Section 301(c) of Pub. L. 93-380 provided that: "The amendments made by this section [to this section and sections 645(15) and 646(a)(1)(A) of this title] shall be effective on and after July 1, 1973."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 634, 636, 639, 644, 645, 646 of this title.

§ 635. Limitation on total payments to local agencies.

(a) Determination by categories of Federally-connected children.

Subject to the limitations in subsections (c) and (d) of this section, the total of the payments to a local educational agency under this chapter may not exceed the sum of the following:

(1) the estimated increase, since the base year, in the number of children residing on Federal property, multiplied by 95 per centum of the average per pupil cost of constructing minimum school facilities in the State in which the school district of such agency is situated; and

(2) the estimated increase, since the base year, in the number of children (A) residing with a parent employed on Federal property (situated in whole or in part in the same State as the school district of such agency or within reasonable commuting distance from such school district), or (B) who had a parent who was on active duty in the uniformed services (as defined in section 101 of Title 37), multiplied by 50 per centum of the average per pupil cost of constructing minimum

school facilities in the State in which the school district of such agency is situated; and

* * * * *

(As amended Aug. 21, 1974, Pub. L. 93–380, title III, § 302(a), 88 Stat. 521.)

CODIFICATION

In subsec. (a)(2), "section 101 of Title 37" was substituted for "section 102 of the Career Compensation Act of 1949" in view of Pub. L. 87–649, § 12(b), Sept. 7, 1962, 76 Stat. 497, section 1 of which enacted Title 37, Pay and Allowances of the Uniformed Services.

AMENDMENTS

1974—Subsec. (a)(1). Pub. L. 93–380, § 302(a)(1), struck from text following "Federal property," the words "(A) who so resided with a parent employed on Federal property (situated in whole or in part in the same State as the school district of such agency or within reasonable commuting distance from such school district) or (B) who had a parent who was on active duty in the uniformed services (as defined in section 102 of the Career Compensation Act of 1949),".

Subsec. (a)(2). Pub. L. 93–380, § 302(a)(2), struck from text "residing on Federal property, or (B)" after "number of children (A)" and redesignated as cl. (B) former cl. (C).

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment by Pub. L. 93–380 effective on and after sixtieth day after Aug. 21, 1974, see section 2(c) of Pub. L. 93–380, set out as a note under section 241b of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 633, 634, 636, 639, 640, 644, 645, 646 of this title.

§ 644. Assistance in other Federally-affected areas.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 25 section 458.

§ 645. Definitions.

For the purposes of this chapter—

* * * * *

(15) The term "base year" means the third or fourth regular school year preceding the fiscal year in which an application was filed under this chapter as may be designated in the application, except that in the case of an application based on children referred to in paragraph (2) or (3) of section 635(a) of this title, the base year shall in no event be later than the regular school year 1973–1974; and

* * * * *

(As amended Aug. 21, 1974, Pub. L. 93–380, title III, § 301(a)(2), 88 Stat. 521.)

AMENDMENTS

1974—Par. (15). Pub. L. 93–380 substituted "1973–1974" for "1968–1969".

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment by Pub. L. 93–380 effective on and after July 1, 1973, see section 301(c) of Pub. L. 93–380, set out as a note under section 633 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 635, 644 of this title.

§ 646. Assistance in cases of certain disasters.

(a) Eligibility requirements; maximum amount; form, terms and conditions.

In any case in which—

(1)(A) the Secretary of Housing and Urban Development determines with respect to any local educational agency (including for the purpose of this section any other public agency which operates schools providing technical, vocational, or other special education to children of elementary or secondary school age) that such agency is located in whole or in part within an area which, after August 30, 1965, and prior to July 1, 1978, has suffered a major disaster as the result of any flood, drought, fire, hurricane, earthquake, storm, or other catastrophe which, in the determination of the President pursuant to sections 5122(2) and 5141 of Title 42, is or threatens to be of sufficient severity or magnitude to warrant disaster assistance by the Federal Government; or

* * * * *

the Commissioner may provide the additional assistance necessary to enable such agency to provide such facilities, upon such terms and in such amounts (subject to the provisions of this section) as the Commissioner may consider to be in the public interest; but such additional assistance, plus the amount which he determines to be available from State, local, and other Federal sources (including funds available under other provisions of this chapter), and from the proceeds of insurance, may not exceed the cost of construction incident to the restoration or replacement of the school facilities destroyed or damaged as a result of the disaster. For the purpose of the preceding sentence, the phrase "cost of construction incident to the restoration or replacement of the school facilities" includes such additional amounts as the Commissioner may approve in order to assure that the facilities, as restored or replaced, will afford appropriate protection against personal injuries resulting from a disaster. In all cases determined pursuant to clause (1)(B) of this subsection, and in any other case deemed appropriate by the Commissioner, such assistance shall be in the form of a repayable advance subject to such terms and conditions as he considers to be in the public interest.

* * * * *

(As amended June 27, 1973, Ex. Ord. No. 11725, § 1, 38 F.R. 17175; May 22, 1974, Pub. L. 93–288, title VI, § 602(f), 88 Stat. 164; Aug. 21, 1974, Pub. L. 93–380, title III, §§ 301(b), 302(b), 88 Stat. 521, 522.)

AMENDMENTS

1974—Subsec. (a)(1)(A). Pub. L. 93–380, § 301(b), substituted "1978" for "1973".

Pub. L. 93–288 substituted "sections 5122(2) and 5141 of Title 42" for "section 4402(1) of Title 42".

Subsec. (a), foll. (6). Pub. L. 93–380, § 302(b), inserted penultimate sentence defining "cost of construction incident to the restoration or replacement of the school facilities".

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment of subsec. (a)(1)(A) of this section by section 301(b) of Pub. L. 93–380 effective on and after July 1, 1973, see section 301(c) of Pub. L. 93–380, set out as a note under section 633 of this title.

Amendment of subsec. (a) of this section by section 302(b) of Pub. L. 93–380 effective on and after sixtieth day after Aug. 21, 1974, except as otherwise specified hereunder, see section 2(c) of Pub. L. 93–380, set out as a note under section 241b of this title.

TRANSFER OF FUNCTIONS

Functions of the Director of the Office of Emergency Preparedness under this section, were transferred to the President by Reorganization Plan No. 1 of 1973, set out in the Appendix to Title 5, Government Organization and

Employees, were transferred to the Secretary of Housing and Urban Development, by section 2(2) of Ex. Ord. No. 11749, Dec. 10, 1973, 38 F.R. 34177, set out as a note preceding section 4411 of Title 42, The Public Health and Welfare.

The Office of Emergency Preparedness including the offices of Director, Deputy Director, Assistant Directors, and Reigonal Directors, was abolished and all functions vested by law in the Office of Emergency Preparedness or the Director of the Office of Emergency Preparedness were transferred to the President of the United States by sections 1 and 3(a)(1) of 1973 Reorg. Plan No. 1, effective July 1, 1973, set out in the Appendix to Title 5, Government Organization and Employees.

Functions of the Director of the Office of Emergency Preparedness with respect to determining whether a major disaster has occurred within the meaning of this section transferred to the Secretary of Housing and Urban Development, see section 1 of Ex. Ord. No. 11725, June 27, 1973, 38 F.R. 17175, set out as a note under section 2271 of Title 50, Appendix, War and National Defense.

Chapter 20A.—NATIONAL TECHNICAL INSTITUTE FOR THE DEAF

§ 685. National Advisory Board on Establishment of the Institute.

* * * * *

(b) Compensation and travel expenses.

Members of the Board, while serving on business of the Board, shall be entitled to receive compensation at rates fixed by the Secretary, but not exceeding $100 per day, including traveltime, and while so serving away from their homes or regular places of business, they may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of Title 5 for persons in the Government service employed intermittently.

* * * * *

CODIFICATION

"Section 5703 of Title 5" was substituted for "section 73b-2 of Title 5" in subsec. (b), in view of Pub. L. 89-554, § 7(b), Sept. 6, 1966, 80 Stat. 631, section 1 of which enacted Title 5, Government Organization and Employees.

TERMINATION OF ADVISORY BOARDS

Advisory Boards in existence on January 5, 1973, to terminate not later than the expiration of the two-year period following January 5, 1973, unless, in the case of a Board established by the President or an officer of the Federal Government, such Board is renewed by appropriate action prior to the expiration of such two-year period, or in the case of a Board established by the Congress, its duration is otherwise provided by law, see sections 3(2) and 14 of Pub. L. 92-463, Oct. 6, 1972, 86 Stat. 770, 776, set out in the Appendix to Title 5, Government Organization and Employees.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 684 of this title.

Chapter 21.—HIGHER EDUCATION FACILITIES

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in section 1232a of this title; title 40 App., section 214.

§§ 711 to 721. Repealed. Pub. L. 92-318, title I, §161(b)(2), June 23, 1972, 86 Stat. 303.

Secton 711, Pub. L. 88-204, title I, § 101, Dec. 16, 1963, 77 Stat. 364; Pub. L. 89-329, title VII, § 701(b), Nov. 8, 1965, 79 Stat. 1267; Pub. L. 89-752, § 2(a), (b), Nov. 3, 1966, 80 Stat. 1240; Pub. L. 90-575, title IV, § 401(a)(1), (2), Oct. 16, 1968, 82 Stat. 1059, authorized appropriations for grants for construction of undergraduate academic facilities.

Section 712, Pub. L. 88-204, title I, § 102, Dec. 16, 1963, 77 Stat. 364; Pub. L. 89-752, § 2(c), Nov. 3, 1966, 80 Stat. 1241 provided for allotment of funds.

Section 713, Pub. L. 88-204, title I, § 103, Dec. 16, 1963, 77 Stat. 365; Pub. L. 89-329, title VII, § 702(a)(1), (2), Nov. 8, 1965, 79 Stat. 1267; Pub. L. 89-752, § 2(d), Nov. 3, 1966, 80 Stat. 1241; Pub. L. 90-575, title IV, §§ 401(a)(4), 406(a), Oct. 16, 1968, 82 Stat. 1059, 1061, provided for allotments for public community colleges and technical institutes, providing in former subsec. (a) for basis of computation and minimum amount; subsec. (b) availability of funds; subsec. (c) reallotment of unreserved funds at close of fiscal year and factors considered; subsec. (d) allotment ratio, specification and promulgation thereof, and definition of high school graduate.

Section 714, Pub. L. 88-204, title I, § 104, Dec. 16, 1963, 77 Stat. 366; Pub. L. 89-329, title VII, § 702(b)(1), (2), Nov. 8, 1965, 79 Stat. 1267; Pub. L. 89-752, § 2(d), Nov. 3, 1966, 80 Stat. 1241; Pub. L. 90-575, title IV, §§ 401(a)(4), 406(a), Oct. 16, 1968, 82 Stat. 1059, 1061, provided for allotments for institutions of higher education other than public community colleges and technical institutes, providing in former subsec. (a) for considerations and determinations affecting allotments and minimum; subsec. (b) availability of funds; and subsec. (c) reallotment of unreserved funds at close of fiscal year and factors considered.

Section 715, Pub. L. 88-204, title I, § 105, Dec. 16, 1963, 77 Stat. 366; Pub. L. 89-329, title VII, § 702(b)(1), (2), (b)(3), (c)(1), Nov. 8, 1965, 79 Stat. 1267, 1268; Pub. L. 89-752, § 3(a), Nov. 3, 1966, 80 Stat. 1241; Pub. L. 90-575, title IV, § 401(a)(3), Oct. 16, 1968, 82 Stat. 1059, provided for State commissions and plans and authorized expenditures.

Section 716, Pub. L. 88-204, title I, § 106, Dec. 16, 1963, 77 Stat. 368; Pub. L. 89-329, title VII, § 701(a), Nov. 8, 1965, 79 Stat. 1266; Pub. L. 90-575, title IV, § 402(a)(1), (b)(1), Oct. 16, 1968, 82 Stat. 1059, 1060, related to eligibility of institutions for grants and expansion of student enrollment capacity.

Section 717, Pub. L. 88-204, title I, § 107, Dec. 16, 1963, 77 Stat. 368; Pub. L. 89-329, title VII, § 702(c)(2), Nov. 8, 1965, 79 Stat. 1268; Pub. L. 90-575, title IV, §§ 402(a)(2), 405(a), Oct. 16, 1968, 82 Stat. 1059, 1061, provided basic criteria for determining priorities and Federal share.

Section 718, Pub. L. 88-204, title I, § 108, Dec. 16, 1963, 77 Stat. 369; Pub. L. 90-575, title IV, § 402(a)(3), Oct. 16, 1968, 82 Stat. 1059, related to applications for grants, providing in former subsec. (a) for submission of applications by institutions; subsec. (b) conditions for approval; and subsec. (c) amendments of applications.

Section 719, Pub. L. 88-204, title I, § 109, Dec. 16, 1963, 77 Stat. 370, provided for reservation and payment of grant.

Section 720, Pub. L. 88-204, title I, § 110, Dec. 16, 1963, 77 Stat. 370, provided for disapproval of State plans, notice and hearing, findings of Commissioner, and notification of non-eligibility.

Section 721, Pub. L. 88-204, title I, § 111, Dec. 16, 1963, 77 Stat. 370, related to judicial review, providing in former subsec. (a) for appeal by State of Commissioner's final action to court of appeals; subsec. (b) findings of Commissioner conclusive if substantially supported, remand for taking further evidence, and new or modified findings conclusive if supported; subsec. (c) jurisdiction of court of appeals and review by Supreme Court.

Subject matter of former sections 711 to 721 of this title is now covered by section 1132a et seq. of this title.

EFFECTIVE DATE OF REPEAL

Section 161(b)(2) of Pub. L. 92-318 provided that repeal of sections 711 to 721, 731, and 732 of this title shall be effective July 1, 1972.

§§ 731, 732. Repealed. Pub. L. 92-318, title I, § 161(b)(2), June 23, 1972, 86 Stat. 303.

Section 731, Pub. L. 88-204, title II, § 201, Dec. 16, 1963, 77 Stat. 371; Pub. L. 89-329, title VII, §§ 701(c), 702(d), Nov. 8, 1965, 79 Stat. 1267; Pub. L. 89-752, § 4, Nov. 3, 1966, 80 Stat. 1242; Pub. L. 90-575, title IV, § 401(b), Oct. 16, 1968, 82 Stat. 1059, authorized appropriations for grants for construction of graduate academic facilities and is now covered by section 1132b of this title.

Section 732, Pub. L. 88–204, title II, § 202, Dec. 16, 1963, 77 Stat. 371; Pub. L. 90–575, title II, § 291 (b)(2), title IV, § 405(b), Oct. 16, 1968, 82 Stat. 1050, 1061, related to grants, providing in former subsec. (a) for eligible institutions and requirement of an application; subsec. (b) maximum allowable percentile of development cost; subsec. (c) action by panel of specialists required for application approval and considerations affecting approval; and subsec. (d) maximum amount of payments in any fiscal year, and is now covered by section 1132b–1 of this title.

EFFECTIVE DATE OF REPEAL

Sections repealed effective July 1, 1972, see section 161 (b)(2) of Pub. L. 92–318, set out as a note under former sections 711 to 721 of this title.

§ 746. Repealed. Pub. L. 92–318, title I, § 161(b)(3), June 23, 1972, 86 Stat. 303.

Section, Pub. L. 88–204, title III, § 306, as added Pub. L. 90–575, title IV, § 403, Oct. 16, 1968, 82 Stat. 1060, related to annual interest grants, providing in: subsec. (a) for power of Commissioner; subsec. (b) for maximum period and amount and approval by Secretary; subsec. (c) for authorization of appropriations and limitation on aggregate amount of contracts; subsec. (d) for maximum amount of funds usable in one State; and subsec. (e) certain prerequisites and nature of financing. Subject matter is now covered by section 1132c–4 of this title.

EFFECTIVE DATE OF REPEAL

Section 161(b)(3) of Pub. L. 92–318 provided that repeal of this section shall be effective July 1, 1972.

§ 758. Assistance for higher education construction in major disaster areas.

CODIFICATION

Section, Pub. L. 88–204, title IV, § 408, as added Pub. L. 89–769, § 7(a), Nov. 6, 1966, 80 Stat. 1318, and amended Pub. L. 90–21, title I, § 101, May 29, 1967, 81 Stat. 36; Pub. L. 90–575, title IV, § 404, Oct. 16, 1968, 82 Stat. 1061; Pub. L. 93–288, title VI, § 602(g), May 22, 1974, 88 Stat. 164, related to assistance for higher education construction in major disaster areas, and is now covered by section 1132d et seq. of this title.

Chapter 23.—TRAINING AND FELLOWSHIP PROGRAMS FOR COMMUNITY DEVELOPMENT

Sec.

803a. Project grants and contracts; authorization; purposes; application; contents; use of payments [New].

§ 801. Congressional findings and purpose.

* * * * *

(b) It is the purpose of this chapter to provide fellowships for the graduate training of professional city and regional planning, management, and housing specialists, and professionally trained personnel with a general capacity in urban affairs and problems: to make grants to and contracts with institutions of higher education (or combinations of such institutions) to assist them in planning, developing, strengthening, improving, or carrying out programs or projects for the preparation of graduate or professional students to enter the public service; and to assist and encourage the States and localities, in cooperation with public and private universities and colleges and urban centers and with business firms and associations, labor unions, and other interested associations and organizations, to (1) organize, initiate, develop, and expand programs which will provide special training in skills needed for economic and efficient community development to those technical, professional, and other persons with the capacity to master and employ such skills who are, or are training to be, employed by a governmental or public body which has responsibility for community development, or by a private nonprofit organization which is conducting or has responsibility for housing and community development programs, and (2) support State and local research that is needed in connection with housing programs and needs, public improvement programing, code problems, efficient land use, urban transportation, and similar community development problems. (As amended Pub. L. 93–383, title IV, § 402(a), Aug. 22, 1974, 88 Stat. 691.)

CODIFICATION

Section 402 of Pub. L. 93–383 provided for amendments to Title VIII of the Housing and Urban Development Act of 1964. The amendments of the enumerated sections of such Title VIII have been executed to comparable sections of Title VIII of the Housing Act of 1964 as the probable intent of Congress.

AMENDMENTS

1974—Subsec. (b). Pub. L. 93–383 expanded purposes of chapter to include graduate training in regional planning and for training of personnel with a general capacity in urban affairs and problems and authorizing grants and contracts with institutions of higher education for training of graduate or professional students.

§ 802. Fellowships for city planning, management, housing specialists, and persons with general capacity in urban affairs and problems; criteria; Urban Studies Fellowship Advisory Board; establishment; membership; meetings; functions; transportation expenses and per diem.

(a) The Secretary is authorized to provide fellowships for the graduate training of professional city planning, management, and housing specialists, and other persons who wish to develop a general capacity in urban affairs and problems as herein provided. Persons shall be selected for such fellowships solely on the basis of ability and upon the recommendation of the Urban Studies Fellowship Advisory Board established pursuant to subsection (b) of this section. Fellowships shall be solely for training in public and private nonprofit institutions of higher education having programs of graduate study in the field of city planning or in related fields (including architecture, civil engineering, economics, municipal finance, public administration, urban affairs, and sociology) which programs are oriented to training for careers in city and regional planning, housing, urban renewal, and community development.

* * * * *

(As amended Pub. L. 93–383, title IV, § 402(b), Aug. 22, 1974, 88 Stat. 691.)

CODIFICATION

Section 402 of Pub. L. 93–383 provided for amendments to Title VIII of the Housing and Urban Development Act of 1964. The amendments of the enumerated sections of such Title VIII have been executed to comparable sections of Title VIII of the Housing Act of 1964 as the probable intent of Congress.

AMENDMENTS

1974—Subsec. (a). Pub. L. 93–383 expanded authority of Secretary to include fellowships in graduate training in city management and for persons wishing to develop a general capacity in urban affairs and added urban affairs to authorized fields of study.

TERMINATION OF ADVISORY BOARDS

Advisory Boards in existence on January 5, 1973, to terminate not later than the expiration of the two-year

period following January 5, 1973, unless, in the case of a Board established by the President or an officer of the Federal Government, such Board is renewed by appropriate action prior to the expiration of such two-year period, or in the case of a Board established by the Congress, its duration is otherwise provided for by law, see sections 3(2) and 14 of Pub. L. 92–463, Oct. 6, 1972, 86 Stat. 770, 776, set out in the Appendix to Title 5, Government Organization and Employees.

§ 803a. Project grants and contracts; authorization; purposes; application; contents; use of payments.

(a) The Secretary is authorized to make grants to or contracts with institutions of higher education, or combinations of such institutions, to assist them in planning, developing, strengthening, improving, or carrying out programs or projects (1) for the preparation of graduate or professional students in the fields of city and regional planning and management, housing, and urban affairs, or (2) for research into, or development or demonstration of, improved methods of education for these professions. Such grants or contracts may include payment of all or part of the cost of programs or projects.

(b) (1) A grant or contract authorized by this section shall be made only upon application to the Secretary at such time or times and containing such information as he may prescribe, except that no such application shall be approved unless it—

(A) sets forth programs, activities, research, or development for which a grant is authorized under this section;

(B) provides for such fiscal control and fund accounting procedures as may be necessary to assure proper disbursement of and accounting for Federal funds paid to the applicant under this subsection; and

(C) provides for making such reports, in such form and containing such information, as the Secretary may require to carry out his functions under this subsection, and for keeping such records and for affording such access thereto as the Secretary may find necessary to assure the correctness and verification of such reports.

(2) Payments under this section may be used, in accordance with regulations of the Secretary, and subject to the terms and conditions set forth in an application approved under paragraph (1), to pay part of the compensation of students employed in professions referred to in subsection (a) (1) of this section, except students employed in any branch of the Government of the United States, as part of a program for which a grant has been approved pursuant to this subsection. (Pub. L. 88–560, title VIII, § 804, as added Pub. L. 93–383, title IV, § 402(c) (2), Aug. 22, 1974, 88 Stat. 692.)

CODIFICATION

Section 402 of Pub. L. 93–383 provided for amendments to Title VIII of the Housing and Urban Development Act of 1964. The amendments of the enumerated sections of such Title VIII have been executed to comparable sections of Title VIII of the Housing Act of 1964 as the probable intent of Congress.

§§ 804, 805.

Sections 804 and 805 of Pub. L. 88–560 were redesignated 805 and 806, respectively, by Pub. L. 93–383, title IV, § 402 (c) (1), Aug. 22, 1974, 88 Stat. 692.

§ 806. Authorization of appropriations; availability of funds.

There is authorized to be appropriated for the purpose of making grants and providing fellowships under this chapter, without fiscal year limitation not to exceed $30,000,000, which amount shall be increased by $3,500,000 on July 1, 1974, and by $3,500,000 on July 1, 1975. Any amounts appropriated under this section shall remain available until expended. (Pub. L. 88–560, title VIII, § 807, formerly § 806, as added Pub. L. 91–152, title III, § 307, Dec. 24, 1969, 83 Stat. 394, and renumbered and amended Pub. L. 93–383, title IV, § 402(c) (1), (d), Aug. 22, 1974, 88 Stat. 692.)

CODIFICATION

Section 402 of Pub. L. 93–383 provided for amendments to Title VIII of the Housing and Urban Development Act of 1964. The amendments of the enumerated sections of such Title VIII have been executed to comparable sections of Title VIII of the Housing Act of 1964 as the probable intent of Congress.

AMENDMENTS

1974—Pub. L. 93–383 added provisions increasing amount by $3,500,000 on July 1, 1974 and by $3,500,000 on July 1, 1975.

§ 807. Definitions; authorization of appropriations for administrative and other expenses.

Section 807 of Pub. L. 88–560 was redesignated 808 by Pub. L. 93–383, title IV, § 402(c) (1), Aug. 22, 1974, 88 Stat. 692.

Chapter 24.—GRANTS FOR EDUCATIONAL MATERIALS, FACILITIES AND SERVICES, AND STRENGTHENING OF EDUCATIONAL AGENCIES

SUBCHAPTER IV-A.—BILINGUAL EDUCATION [NEW]

Sec.

880b. Congressional declaration of policy; authorization of appropriations.
880b–1. General provisions.
(a) Definitions; English-speaking children, enrollment; application.
(b) Model programs.
(c) Regulations.

PART A.—FINANCIAL ASSISTANCE FOR BILINGUAL EDUCATION PROGRAMS

880b–7. Bilingual education programs.
(a) Grants for certain programs and activities.
(b) Applications to Commissioner; eligible applicants; time, manner, and information; conditions for approval; provisions, agreements, and assurances of State educational agency applications, including coordination of technical assistance and supplementation not supplantation of funds; limitation of payments to State educational agencies.
(c) Distribution of funds; priority to needy areas.
880b–8. Indian children in schools.
(a) Tribal institution or organization considered to be local educational agency.
(b) Payments to Secretary of Interior for bilingual education of children on reservations by schools operated or funded by Department of Interior; criteria.
(c) Annual report to Congress and President; authority or obligation of Director unaffected.
(d) Assessment of needs of Indian children; submittal to Congress and President.

Sec.
880b–9. Training activities.
(a) Grants and contracts for personnel training, special training programs, and training institutes; fellowships: number, report to congressional committees; stipends; funds limitation; application for purposes of section 880b–1(a)(4)(E) of this title.
(b) "Eligible applicants" defined.

PART B.—ADMINISTRATION

880b–10. Office of Bilingual Education.
(a) Execution of functions of Commissioner.
(b) Director of Bilingual Education; appointment; delegation of functions.
(c) Report to Congress and President; contents.
880b–11. National Advisory Council on Bilingual Education.
(a) Establishment; membership; Chairman; qualifications; representation of interested persons and geographic areas.
(b) Meetings.
(c) Duties; report to Congress and President.
(d) Personnel procurement; staff; information, and other assistance.

PART C.—SUPPORTIVE SERVICES AND ACTIVITIES

880b–12. Administration; regulations; delegation of functions.
880b–13. Research and demonstration projects.
(a) Bilingual education research; statement of purpose.
(b) Competitive contracts.
(c) Studies; instructional materials; national clearinghouse of information.
(d) Periodic consultation with State and local educational agencies and appropriate groups and organizations.
(e) Authorization of appropriations.

SUBCHAPTER V.—GENERAL PROVISIONS

884. Limitations on refund of payments [New].
887c. Improvement of educational opportunities for Indian children [New].
(a) Special programs and projects; inservice programs: Indians, preference.
(b) Planning, pilot, and demonstration projects.
(c) Educational enrichment programs and services.
(d) Education personnel; Indians, preference.
(e) Information dissemination; program evaluation.
(f) Applications for grants; time of submission; information; parental participation; participation of children on equitable basis; priority to Indian entities.
(g) Authorization of appropriations.
887c–1. Special educational training programs for teachers of Indian children [New].
(a) Grants and contracts for special programs and projects: priority to Indian entities; fellowships and traineeships: preference to Indians; education allowance grants and contracts.
(b) Stipends and allowances to recipients of traineeships and fellowships.
(c) Authorization of appropriations.
887c–2. Fellowships for Indian students [New].
(a) Number for each fiscal year; graduate and professional program studies; academic year limitations; award of vacated fellowships for remainder of period.
(b) Stipends and allowances to recipients of fellowships.
(c) Payments in lieu of tuition for holders of fellowships.

Sec.
887d. Consumers' education programs [New].
(a) Office of Consumers' Education; Director: function and appointment.
(b) Grants, contract authority; prohibition; use of funds; bilingual assistance; applications: filing, form, contents; State educational agency, notification; program costs; Federal share.
(c) Reports; evaluations.
(d) Limitation on fiscal year expenditures.
887e. Open meetings of educational agencies [New].

SUBCHAPTER VI.—ETHNIC HERITAGE PROGRAM [NEW]

900. Congressional statement of policy.
900a. Ethnic heritage studies programs.
900a–1. Authorized activities.
900a–2. Applications for assistance.
(a) Approval, conditions.
(b) Program coordination.
900a–3. Administrative provisions; funds, usage.
900a–4. National Advisory Council on Ethnic Heritage Studies.
(a) Establishment; composition; appointment: service; compensation.
(b) Duties and functions.
900a–5. Authorization of appropriations.

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in sections 887e, 1232a of this title.

SUBCHAPTER I.—SCHOOL LIBRARY RESOURCES, TEXTBOOKS, AND OTHER INSTRUCTIONAL MATERIALS

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 881, 1801, 1821 of this title.

§ 821. Authorization of appropriations.

* * * * *

(b) For the purpose of making grants under this subchapter, there are hereby authorized to be appropriated the sum of $100,000,000 for the fiscal year ending June 30, 1966, $125,000,000 for the fiscal ending June 30, 1967, $150,000,000 for the fiscal year ending June 30, 1968, $162,500,000 for the fiscal year ending June 30, 1969, $200,000,000 for each of the fiscal years ending June 30, 1970, and June 30, 1971, $210,000,000 for the fiscal year ending June 30, 1972, and $220,000,000 for the fiscal year ending June 30, 1973, and each of the five succeeding fiscal years, except that no funds are authorized to be appropriated for obligation by the Commissioner during any year for which funds are available for obligation by the Commissioner for carrying out part B of title IV. (As amended Pub. L. 93–380, title I, § 102(a), Aug. 21, 1974, 88 Stat. 501.)

REFERENCES IN TEXT

Part B of title IV, referred to in subsec. (b), is classified to section 1821 of this title.

AMENDMENTS

1974—Subsec. (b). Pub. L. 93–380 authorized appropriations of $220,000,000 for fiscal years ending June 30, 1974, through 1978, except that no funds are authorized to be appropriated for obligation during any year for which funds are available for obligation for carrying out part B of title IV.

EFFECTIVE DATE OF 1974 AMENDMENT

Section 102(c) of Pub. L. 93–380 provided that: "The amendments made by this section [to subsec. (b) of this section and section 822(a)(1) of this title] shall be effective on and after July 1, 1973."

SHORT TITLE

Section 1 of Pub. L. 93-380 provided: "That this Act [enacting chapters 39 (sections 1701 to 1758), 40 (sections 1801 to 1867), and 41 (sections 1901 to 1982) and sections 241b-1, 241c-1 to 241c-5, 241d-11, 241e-1, 241n, 241o, 244(16), (17), 246, 845(g), 880b, 880b-1, 880b-7 to 880b-13, 884, 887b(c), 887c-1, 887c-2, 887e, 1134r-1, 1208-1, 1208b, 1221-1, 1221-2, 1221e-1 to 1221e-3, 1221i, 1226a to 1226d, 1228, 1230, 1231b-1, 1231b-2, 1232f to 1232i, 1233h, 1248(14), (15), 1393 to 1393f, 1403(c), and 1424a; amending sections 237 to 240, 241-1, 241b, 241c, 241e, 241f to 241h, 241j to 241*l*, 241bb, 244, 351d, 441, 633, 635, 645, 646, 821, 822, 841, 842, 844a, 845, 847a, 861, 862, 866, 866a, 867, 887, 887a, 887c, 887d, 900a-1, 900a-5, 1009, 1052, 1070d-1, 1070e-1, 1101, 1103, 1104, 1135, 1202 to 1205, 1208, 1209, 1211, 1211a, 1221, 1221a to 1221c, 1221e, 1221g, 1225, 1227, 1231f, 1232, 1232c, 1233b, 1233d, 1233f, 1242, 1244, 1262, 1402, 1403, 1411 to 1413, 1426, 1436, 1444, 1452, 1454, 1461, 1603, 1605, 1607 to 1609, 1615, and 1619; and repealing former section 241d-11, and sections 241d-12, 844a(d), 844b, 845(c), 887b, 1221e(f), 1222, 1224, and 1608(a)(3) of this title; enacting notes set out under sections 238, 241a, 241b, 241c, 880b-10, 880b-11, 1221-1, 1221e, 1221e-1, 1223, 1231f, 1232c, 1402, 1603, and 1681; and amending note set out under section 880b-1 of this title] may be cited as the 'Education Amendments of 1974'."

DUTIES AND RESPONSIBILITIES OF SECRETARY OF INTERIOR RESPECTING FUNDS

Section 421(b)(2) of Pub. L. 92-318, title IV, June 23, 1972, 86 Stat. 341, provided that: "For the purposes of titles II and III of the Elementary and Secondary Education Act of 1965 [this subchapter and subchapter II of this chapter] and part B of title VI of Public Law 91-230 [sections 1411 to 1414 of this title], the Secretary of the Interior shall have the same duties and responsibilities with respect to funds paid to him under such titles, as he would have if the Department of the Interior were a State educational agency having responsibility for the administration of a State plan under such titles."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 244, 822 of this title.

§ 822. Authorization of additional appropriations; allotments and reallotments.

(a)(1) There is hereby authorized to be appropriated for each fiscal year for the purposes of this paragraph an amount equal to not more than 1 per centum of the amount appropriated for such year for payments to States under section 821(b) of this title. The Commissioner shall allot the amount appropriated pursuant to this paragraph among Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands according to their respective needs for assistance under this subchapter. In addition, he shall allot from such amount to (A) the Secretary of the Interior the amount necessary for such assistance for children and teachers in elementary and secondary schools operated for Indian children by the Department of the Interior, and (B) the Secretary of Defense the amount necessary for such assistance for children and teachers in the overseas dependents schools of the Department of Defense. The terms upon which payments for such purpose shall be made to the Secretary of the Interior and the Secretary of Defense shall be determined pursuant to such criteria as the Commissioner determines will best carry out the purposes of this subchapter.

(2) From the sums appropriated for carrying out this subchapter for any fiscal year pursuant to section 821(b) of this title, the Commissioner shall allot to each State an amount which bears the same ratio to the total of such sums as the number of children enrolled in the public and private elementary and secondary schools of that State bears to the total number of children enrolled in such schools in all of the States. The number of children so enrolled shall be determined by the Commissioner on the basis of the most recent satisfactory data available to him. For purposes of this subsection, the term "State" shall not include Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands.

* * * * *

(As amended Pub. L. 92-318, title IV, § 421(b)(1)(A), June 23, 1972, 86 Stat. 341; Pub. L. 93-380, title I, § 102(b), title VIII, § 843(a), Aug. 21, 1974, 88 Stat. 502, 611.)

AMENDMENTS

1974—Subsec. (a)(1). Pub. L. 93-380, §§ 102(b), 843(a)(1), (3), struck from third sentence following "In addition," the words "for the fiscal year ending June 30, 1968, and each of the succeeding fiscal years ending prior to July 1, 1973,", struck the term "Puerto Rico," preceding "Guam", and reduced the rate from "3" to "1" per centum, respectively.

Subsec. (a)(2). Pub. L. 93-380, § 843(a)(2), struck "the Commonwealth of Puerto Rico," preceding "Guam".

1972—Subsec. (a)(1). Pub. L. 92-318 substituted in third sentence "July 1, 1973" for "July 1, 1972".

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment of subsec. (a)(1) by section 102(b) of Pub. L. 93-380 effective on and after July 1, 1973, see section 102(c) of Pub. L. 93-380, set out as a note under section 821 of this title.

Amendment of subsec. (a)(1) and (2) by section 843(a) of Pub. L. 93-380 effective on and after July 1, 1974, see section 843(e) of Pub. L. 93-380, set out as a note under section 241g of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 244, 823, 824 of this title.

§ 823. State plans.

(a) Any State which desires to receive grants under this subchapter shall submit to the Commissioner a State plan, in such detail as the Commissioner deems necessary, which—

* * * * *

(3) sets forth the criteria to be used in allocating library resources, textbooks, and other printed and published instructional materials provided under this subchapter among the children and teachers of the State, which criteria shall—

* * * * *

(B) provide assurance that to the extent consistent with law such library resources, textbooks, and other instructional materials will be provided on an equitable basis for the use of children and teachers in private elementary and secondary schools in the State which comply with the compulsory attendance laws of the State or are otherwise recognized by it through some procedure customarily used in the State,

(C) provide assurance that, in order to secure the effective and efficient use of Federal funds, there will be appropriate coordination at both State and local levels between the program carried out under this subchapter with respect to library resources and the program (if any) carried out under the Library Services and Construction Act, and

(D) provide assurance that equal consideration shall be given to the needs of elementary and secondary schools for library resources, textbooks, and other printed and published materials utilized for instruction, orientation, or guidance and counseling in occupational education.

* * * * *

(As amended Pub. L. 92–318, title V, § 509(a)(1), June 23, 1972, 86 Stat. 353.)

AMENDMENTS

1972—Subsec. (a)(3)(D). Pub. L. 92–318 added cl. (D).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 244, 824, 826, 827 of this title.

§ 827. Judicial review.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1944 of this title.

SUBCHAPTER II.—SUPPLEMENTARY EDUCATIONAL CENTERS AND SERVICES

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 881, 1231b–1, 1801, 1821, 1831 of this title.

§ 841. Authorization of appropriations.

* * * * *

(b) For the purpose of making grants under this subchapter, there is hereby authorized to be appropriated the sum of $550,000,000 for the fiscal year ending June 30, 1971, $575,000,000 for the fiscal year ending June 30, 1972, and $605,000,000 for the fiscal year ending June 30, 1973, and each of the five succeeding fiscal years, except that no funds are authorized to be appropriated for obligation by the Commissioner during any year for which funds are available for obligation by the Commissioner for carrying out part C of title IV. In addition, there are hereby authorized to be appropriated for the fiscal year ending June 30, 1971, and each of the succeeding fiscal years, such sums as may be necessary for the administration of State plans, the activities of advisory councils, and the evaluation and dissemination activities required under this subchapter, and each of the five succeeding fiscal years, except that no funds are authorized to be appropriated for obligation by the Commissioner during any year for which funds are available for obligation by the Commissioner for carrying out part C of title IV. (As amended Pub. L. 93–380, title I, § 103(a), Aug. 21, 1974, 88 Stat. 502.)

REFERENCES IN TEXT

Part C of title IV, referred to in subsec. (b), is classified to section 1831 et seq. of this title.

AMENDMENTS

1974—Subsec. (b). Pub. L. 93–380 authorized appropriation of $605,000,000 for fiscal years ending June 30, 1974, through 1978, except that no funds are authorized to be appropriated for obligation during any year for which funds are available for obligation for carrying out part C of title IV; and inserted at end of second sentence ", and each of the five succeeding fiscal years, except that no funds are authorized to be appropriated for obligation by the Commissioner during any year for which funds are available for obligation by the Commissioner for carrying out part C of title IV."

EFFECTIVE DATE OF 1974 AMENDMENT

Section 103(e) of Pub. L. 93–380 provided that: "The amendments made by subsections (a), (b), and (c) of this section [amending sections 841(b), 842(a)(1), and 844a(c) of this title] shall be effective on and after July 1, 1973, and the amendment made by subsection (d) [enacting section 845(g) of this title] shall be effective on the date of enactment of this Act [Aug. 21, 1974]."

DUTIES AND RESPONSIBILITIES OF SECRETARY OF INTERIOR RESPECTING FUNDS

Duties and responsibilities of Secretary of Interior those of a State educational agency with respect to funds under this subchapter, see section 421(b)(2) of Pub. L. 92–318, set out as a note under section 821 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 244, 842, 843 of this title.

§ 842. Allotment of appropriated funds.

(a) Additional appropriation for outlying areas; payments to Secretaries of Interior and Defense; allotment among States.

(1) There is hereby authorized to be appropriated for each fiscal year for the purposes of this paragraph an amount equal to not more than 1 per centum of the amount appropriated for such year for grants under this subchapter. The Commissioner shall allot the amount appropriated pursuant to this paragraph among Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands according to their respective needs for assistance under this subchapter. In addition he shall allot from such amount to (A) the Secretary of the Interior the amount necessary to provide programs and projects for the purpose of this subchapter for individuals on reservations serviced by elementary and secondary schools operated for Indian children by the Department of the Interior, and (B) the Secretary of Defense the amount necessary for such assistance for children and teachers in the overseas dependents schools of the Department of Defense. The terms upon which payments for such purpose shall be made to the Secretary of the Interior and the Secretary of Defense shall be determined pursuant to such criteria as the Commissioner determines will best carry out the purposes of this subchapter.

(2) From the sums appropriated for making grants under this subchapter for any fiscal year pursuant to section 841(b) of this title, the Commissioner shall allot $200,000 to each State and shall allot the remainder of such sums among the States as follows:

(A) He shall allot to each State an amount which bears the same ratio to 50 per centum of such remainder as the number of children aged five to seventeen, inclusive, in the State bears to the number of such children in all the States, and

(B) He shall allot to each State an amount which bears the same ratio to 50 per centum of such remainder as the population of the State bears to the population of all the States.

For the purposes of this subsection, the term "State" does not include Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands.

* * * * *

(As amended Pub. L. 92–318, title IV, § 421(b)(1)(B), June 23, 1972, 86 Stat. 341; Pub. L. 93–380, title I, § 103(b), title VIII, § 843(a), Aug. 21, 1974, 88 Stat. 502, 611.)

AMENDMENTS

1974—Subsec. (a)(1). Pub. L. 93-380, §§ 103(b), 843(a)(1), (3), struck from third sentence following "In addition" the words "for each fiscal year ending prior to July 1, 1973,", struck the term "Puerto Rico," preceding "Guam", and reduced the rate from "3" to "1" per centum, respectively.

Subsec. (a)(2). Pub. L. 93-380, § 843(a)(2), struck "the Commonwealth of Puerto Rico," preceding "Guam".

1972—Subsec. (a)(1). Pub. L. 92-318 substituted in third sentence "July 1, 1973" for "July 1, 1972".

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment of subsec. (a)(1) by section 103(b) of Pub. L. 93-380 effective on and after July 1, 1973, see section 103(e) of Pub. L. 93-380, set out as a note under section 841 of this title.

Amendment of subsec. (a)(1) and (2) by section 843(a) of Pub. L. 93-380 effective on and after July 1, 1974, see section 843(e) of Pub. L. 93-380, set out as a note under section 241g of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 244, 844a, 845 of this title.

§ 843. Uses of Federal funds.

* * * * *

(b) Programs, pilot projects, facilities and equipment; services and activities.

Funds appropriated pursuant to section 841 of this title shall be available only for grants in accordance with applications approved pursuant to this subchapter for—

* * * * *

(3) the establishment, maintenance, operation, and expansion of programs or projects, including the lease or construction of necessary facilities and the acquisition of necessary equipment, designed to enrich the programs of local elementary and secondary schools and to offer a diverse range of educational experience to persons of varying talents and needs by providing, especially through new and improved approaches, supplementary educational services and activities, such as—

* * * * *

(C) programs designed to encourage the development in elementary and secondary schools of occupational information and counseling and guidance, and instruction in occupational education on an equal footing with traditional academic education;

(D) specialized instruction and equipment for students interested in studying advanced scientific subjects, foreign languages, and other academic subjects which are not taught in the local schools or which can be provided more effectively on a centralized basis, or for persons who are handicapped or of preschool age;

(E) making available modern educational equipment and specially qualified personnel, including artists and musicians, on a temporary basis for the benefit of children in public and other nonprofit schools, organizations, and institutions;

(F) developing, producing, and transmitting radio and television programs for classroom and other educational use;

(G) in the case of any local educational agency which is making a reasonable tax effort but which is nevertheless unable to meet critical educational needs (including preschool education), because some or all of its schools are seriously overcrowded, obsolete, or unsafe, initiating and carrying out programs or projects designed to meet those needs, particularly those which will result in more effective use of existing facilities;

(H) providing special educational and related services for persons who are in or from rural areas or who are or have been otherwise isolated from normal educational opportunities, including, where appropriate, the provision of mobile educational services and equipment, special home study courses, radio, television, and related forms of instruction, bilingual education methods and visiting teachers' programs;

(I) encouraging community involvement in educational programs;

(J) providing programs for gifted and talented children; and

(K) other specially designed educational programs or projects which meet the purposes of this subchapter; and

* * * * *

(As amended Pub. L. 92-318, title V, § 509(a)(2), June 23, 1972, 86 Stat. 353.)

AMENDMENTS

1972—Subsec. (b)(3)(C). Pub. L. 92-318 added cl. (C). Former cl. (C) redesignated (D).

Subsec. (b)(3)(D)-(K). Pub. L. 92-318 redesignated former cls. (C)-(J) as (D)-(K), respectively.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 244, 844, 844a, 845, 847a of this title.

§ 844a. State plans.

* * * * *

(c) Partial approval of plan; modification of unapproved portion.

The Commissioner may, if he finds that a State plan for any fiscal year ending prior to July 1, 1978, is in substantial compliance with the requirements set forth in subsection (b) of this section, approve that part of the plan which is in compliance with such requirements and make available (pursuant to section 845 of this title) to that State that part of the State's allotment which he determines to be necessary to carry out that part of the plan so approved. The remainder of the amount which such State is eligible to receive under this section may be made available to such State only if the unapproved portion of that State plan has been so modified as to bring the plan into compliance with such requirements: *Provided*, That the amount made available to a State pursuant to this subsection shall not be less than 50 per centum of the maximum amount which the State is eligible to receive under this section.

(d) Repealed. Pub. L. 93-380, title IV, § 402(c)(2)(i), Aug. 21, 1974, 88 Stat. 546.

* * * * *

(As amended Pub. L. 93-380, title I, § 103(c), title IV, § 402(c)(2)(i), Aug. 21, 1974, 88 Stat. 502, 546.)

AMENDMENTS

1974—Subsec. (c). Pub. L. 93-380, § 103(c), substituted "1978" for "1973".

Subsec. (d). Pub. L. 93–380, § 402(c)(2)(i), repealed subsec. (d) which placed restrictions on amount of Federal funds.

EFFECTIVE DATE OF 1974 AMENDMENT

Section 402(c)(2) of Pub. L. 93–380 provided in part that repeal of sections 844a(d), 844b, and 845(c) of this title by Pub. L. 93–380 shall be effective July 1, 1975.

Amendment of subsec. (c) by Pub. L. 93–380 effective on and after July 1, 1973, see section 103(e) of Pub. L. 93–380, set out as a note under section 841 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 845, 1413 of this title.

§ 844b. Repealed. Pub. L. 93–380, title IV, § 402(c)(2)(ii), Aug. 21, 1974, 88 Stat. 546.

Section, Pub. L. 89–10, title III, § 306, as added Pub. L. 90–247, title I, § 131, Jan. 2, 1968, 81 Stat. 796, and amended Pub. L. 91–230, title I, § 131(a)(1), Apr. 13, 1970, 84 Stat. 139, provided for special programs and projects.

EFFECTIVE DATE OF REPEAL

Section repealed effective July 1, 1975, see section 402(c)(2) of Pub. L. 93–380, set out as a note under section 844a of this title.

§ 845. Payments.

* * * * *

(b) Payments to States for administration of plans.

The Commissioner is authorized to pay to each State amounts necessary for the activities described in section 843(c) of this title, during any fiscal year, except that (1) the total of such payments shall not be in excess of an amount equal to 7½ per centum of its allotment for that fiscal year or, $150,000 ($50,000 in the case of Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands), whichever is greater, and (2) in such payment, the amount paid for the administration of the State plan for any fiscal year shall not exceed an amount equal to 5 per centum of its allotment for that fiscal year or $100,000 ($35,000 in the case of Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands), whichever is greater.

(c) Repealed. Pub. L. 93–380, title IV, § 402(c)(2)(iii), Aug. 21, 1974, 88 Stat. 546.

* * * * *

(g)(1) Final action of Commissioner; notice and hearing.

The Commissioner shall not take any final action under subsection (f) of this section until he has afforded the State educational agency and the local educational agency affected by such action at least sixty days notice of his proposed action and an opportunity for a hearing with respect thereto on the record.

(2) Petition for review; transmittal of copy to Commissioner; record of proceedings.

If a State or local educational agency is dissatisfied with the Commissioner's final action after a hearing under paragraph (1) of this subsection, it may, within sixty days after notice of such action, file with the United States court of appeals for the circuit in which such State is located a petition for review of that action. A copy of the petition shall be forthwith transmitted by the clerk of the court to the Commissioner. The Commissioner thereupon shall file in the court the record of the proceedings on which he based his action, as provided in section 2112 of Title 28.

(3) Fact findings; conclusiveness of determinations.

The findings of fact by the Commissioner, if supported by substantial evidence, shall be conclusive; but the court, for good cause shown, may remand the case to the Commissioner to take further evidence, and the Commissioner may thereupon make new or modified findings of fact and may modify his previous action, and shall file in the court the record of the further proceedings. Such new or modified findings of fact shall likewise be conclusive if supported by substantial evidence.

(4) Jurisdiction of court of appeals; review by Supreme Court.

Upon the filing of such petition, the court shall have jurisdiction to affirm the action of the Commissioner or to set it aside, in whole or in part. The judgment of the court shall be subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of Title 28. (As amended Pub. L. 93–380, title I, § 103(d), title IV, § 402(c)(2)(iii), title VIII, § 843(a)(2), Aug. 21, 1974, 88 Stat. 502, 546, 611.)

AMENDMENTS

1974—Subsec. (b). Pub. L. 93–380, § 843(a)(2), struck out "the Commonwealth of Puerto Rico," preceding "Guam" in two instances.

Subsec. (c). Pub. L. 93–380, § 402(c)(2)(iii), repealed subsec. (c) which provided for payments to applicants.

Subsec. (g). Pub. L. 93–380, § 103(d), added subsec. (g).

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment of subsec. (b) by Pub. L. 93–380 effective on and after July 1, 1974, see section 843(e) of Pub. L. 93–380, set out as a note under section 241g of this title.

Repeal of subsec. (c) of this section by Pub. L. 93–380 effective July 1, 1975, see section 402(c)(2) of Pub. L. 93–380, set out as a note under section 844a of this title.

Subsec. (g) of this section effective Aug. 21, 1974, see section 103(e) of Pub. L. 93–380, set out as a note under section 841 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 244, 844a of this title.

§ 847a. National Advisory Council on Supplementary Centers and Services.

* * * * *

(c) Annual report to President and Congress; termination of National Council.

The Council shall make an annual report of its findings and recommendations (including recommendations for changes in the provisions of this subchapter) to the President and the Congress not later than January 20 of each year. The President is requested to transmit to the Congress such comments and recommendations as he may have with respect to such report. Subject to section 1233g(b) of this title, the Council shall continue to exist until July 1, 1978, except that the Council shall not exist during any year for which funds are available for obligation by the Commissioner for carrying out chapter 40 of this title. (As amended Pub. L. 93–380, title VIII, § 845(b), Aug. 21, 1974, 88 Stat. 612.)

AMENDMENTS

1974—Subsec. (c). Pub. L. 93–380 continued existence of the National Council until July 1, 1978, except that the Council shall not exist during any year for which funds are available for obligation by the Commissioner for carrying out chapter 40 of this title.

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment by Pub. L. 93–380 effective on and after sixtieth day after Aug. 21, 1974, see section 2(c) of Pub. L. 93–380, set out as a note under section 241b of this title.

SUBCHAPTER III.—STRENGTHENING STATE AND LOCAL EDUCATIONAL AGENCIES

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 881, 1801, 1831 of this title.

PART A.—GRANTS TO STRENGTHEN STATE DEPARTMENTS OF EDUCATION

§ 861. Authorization of appropriations.

* * * * *

(b) For the purpose of making grants under this part, there is hereby authorized to be appropriated the sum of $25,000,000 for the fiscal year ending June 30, 1966, $30,000,000 for the fiscal year ending June 30, 1967, $65,000,000 for the fiscal year ending June 30, 1968, and $80,000,000 each for the fiscal years ending June 30, 1969, and June 30, 1970, and June 30, 1971, $85,000,000 for the fiscal year ending June 30, 1972, and $90,000,000 for the fiscal year ending June 30, 1973 and each of the five succeeding fiscal years, except that no funds are authorized to be appropriated for obligation by the Commissioner during any year for which funds are available for obligation by the Commissioner for carrying out part C of title IV. (As amended Pub. L. 93–380, title I, § 104(a), Aug. 21, 1974, 88 Stat. 503.)

REFERENCES IN TEXT

Part C of title IV, referred to in subsec. (b), is classified to section 1831 et seq. of this title.

AMENDMENTS

1974—Subsec. (b). Pub. L. 93–380 authorized appropriation of $90,000,000 for fiscal years ending June 30, 1974, through 1978, except that no funds are authorized to be appropriated for obligation during any year for which funds are availble for obligation for carrying out part C of title IV.

EFFECTIVE DATE OF 1974 AMENDMENT

Section 104(d) of Pub. L. 93–380 provided that: "The amendments made by this section [to subsec. (b) of this section and sections 866(b) and 867(b) of this title] shall be effective on and after July 1, 1973."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 862, 863, 865 of this title.

§ 862. Apportionment among States.

(a)(1) From 95 per centum of the sums appropriated for carrying out this part for each fiscal year, the Commissioner shall reserve such amount, but not in excess of 1 per centum of such 95 per centum of such sums, as he may determine and shall apportion such amount among Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands according to their respective needs for assistance under this part. The remainder of such per centum of such sums shall be apportioned by the Commissioner as follows:

(A) He shall apportion 40 per centum of such remainder among the States in equal amounts.

(B) He shall apportion to each State an amount that bears the same ratio to 60 per centum of such remainder as the number of public school pupils in the State bears to the number of public school pupils in all the States, as determined by the Commissioner on the basis of the most recent satisfactory data available to him.

For purposes of this paragraph, the term "State" does not include Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands.

* * * * *

(As amended Pub. L. 93–380, title VIII § 843(a)(2), (3), Aug. 21, 1974, 88 Stat. 611.)

AMENDMENTS

1974—Subsec. (a)(1). Pub. L. 93–380 struck out reference to "the Commonwealth of Puerto Rico," preceding "Guam" in two instances and reduced the rate from "2" to "1" per centum.

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment of subsec. (a)(1) by Pub. L. 93–380 effective on and after July 1, 1974, see section 843(e) of Pub. L. 93–380, set out as a note under section 241g of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 863 of this title.

§ 863. Grants from apportioned funds; programs and activities covered.

From the amount apportioned to any State for any fiscal year under section 862 of this title the Commissioner may, upon approval of an application or applications therefor submitted to him by such State through the State educational agency, make a grant or grants to such agency equal to the expenditures incurred by such agency for the planning of, and for programs for, the development, improvement, or expansion of activities promoting the purposes set forth in section 861(a) of this title and more particularly described in such application and for which such application is approved, such as—

* * * * *

(4) programs for conducting, sponsoring, or cooperating in educational research and demonstration programs and projects such as (A) the development in elementary and secondary schools of programs of occupational information, counseling and guidance, and instruction in occupational education on an equal footing with traditional academic education, (B) establishing and maintaining curriculum research and innovation centers to assist in locating and evaluating curriculum research findings, (C) discovering and testing new educational ideas (including new uses of printed and audio-visual media) and more effective educational practices, and putting into use those which show promise of success, and (D) studying ways to improve the legal and organizational structure for education and the management and administration of education in the State;

* * * * *

(As amended Pub. L. 92–318, title V, § 509(a)(3), June 23, 1972, 86 Stat. 353.)

AMENDMENTS

1972—Par. (4)(A). Pub. L. 92–318, added cl. (A). Former cl. (A) redesignated (B).

Par (4)(B)–(D). Pub. L. 92–318 redesignated former cls. (A)–(C) as (B)–(D), respectively.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 843, 864 of this title.

PART B.—LOCAL EDUCATIONAL AGENCIES

§ 866. Authorization of appropriations.

* * * * *

(b) For the purpose of making grants under this part, there is hereby authorized to be appropriated the sum of $10,000,000 for the fiscal year ending June 30, 1970, $20,000,000 for the fiscal year ending June 30, 1971, $30,000,000 for the fiscal year ending June 30, 1972, and $40,000,000 for the fiscal year ending June 30, 1973, and each of the five succeeding fiscal years, except that no funds are authorized to be appropriated for obligation by the Commissioner during any year for which funds are available for obligation by the Commissioner for carrying out part C of title IV. (As amended Pub. L. 93–380, title I, § 104(b), Aug. 21, 1974, 88 Stat. 503.)

REFERENCES IN TEXT

Part C of title IV, referred to in subsec. (b), is classified to section 1831 et seq. of this title.

AMENDMENTS

1974—Subsec. (b). Pub. L. 93–380 authorized appropriation of $40,000,000 for fiscal years ending June 30, 1974, through 1978, except that no funds are authorized to be appropriated for obligation during any year for which funds are available for obligation for carrying out part C of title IV.

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment by Pub. L. 93–380 effective on and after July 1, 1973, see section 104(d) of Pub. L. 93–380, set out as a note under section 861 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 866a of this title.

§ 866a. Apportionment among States.

(a) From the sums appropriated for carrying out this part for each fiscal year, the Commissioner shall reserve such amount, but not in excess of 1 per centum of such sums, as he may determine and shall apportion such amount among Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands according to their respective needs for assistance under this part. The remainder of such sums shall be apportioned by the Commissioner as follows:

(A) He shall apportion 40 per centum of such remainder among the States in equal amounts.

(B) He shall apportion to each State an amount that bears the same ratio to 60 per centum of such remainder as the number of public school pupils in the State bears to the number of public school pupils in all the States, as determined by the Commissioner on the basis of the most recent satisfactory data available to him.

For purpose of this paragraph, the term "State" does not include Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands.

* * * * *

(As amended Pub. L. 93–380, title VIII, § 843(a)(2), (3), Aug. 21, 1974, 88 Stat. 611.)

AMENDMENTS

1974—Subsec. (a). Pub. L. 93–380 struck out reference to "the Commonwealth of Puerto Rico," preceding "Guam" in two instances and reduced the rate from "2" to "1" per centum.

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment by Pub. L. 93–380 effective on and after July 1, 1974, see section 843(c) of Pub. L. 93–380, set out as a note under section 241g of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 866b of this title.

PART C.—COMPREHENSIVE EDUCATIONAL PLANNING AND EVALUATION

§ 867. Authorization of appropriations; apportionment among States.

* * * * *

(b) For the purpose of carrying out the provisions of this part, there are hereby authorized to be appropriated $10,000,000 for the fiscal year ending June 30, 1971, $15,000,000 for the fiscal year ending June 30, 1972, and $20,000,000 for the fiscal year ending June 30, 1973, and each of the five succeeding fiscal years, except that no funds are authorized to be appropriated for obligation during any year for which funds are available for obligation for carrying out part C of title IV.

(c)(1)(A) From the sums appropriated for carrying out this part for each fiscal year, the Commissioner shall reserve such amount, but not in excess of 1 per centum of such per centum, as he may determine and shall apportion such amount among Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands according to their respective needs for assistance under this part. The remainder shall be apportioned by the Commissioner as follows:

(i) He shall apportion 40 per centum of such remainder among the States in equal amounts.

(ii) He shall apportion to each State an amount that bears the same ratio to 60 per centum of such remainder as the population of the State bears to the population of all the States, as determined by the Commissioner on the basis of the most recent satisfactory data available to him.

(B) For purposes of this paragraph (1), the term "State" does not include Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands.

* * * * *

(As amended Pub. L. 93–380, title I, § 104(c), title VIII, § 843(a)(2), (3), Aug. 21, 1974, 88 Stat. 503, 611.)

REFERENCES IN TEXT

Part C of title IV, referred to in subsec. (b), is classified to section 1831 et seq. of this title.

AMENDMENTS

1974—Subsec. (b). Pub. L. 93–380, § 104(c), authorized appropriation of $20,000,000 for fiscal years ending June 30, 1974, through 1978, except that no funds are authorized to be appropriated for obligation during any year for which funds are available for obligation for carrying out part C of title IV.

Subsec. (c)(1) Pub. L. 93–380, § 843(a)(2), (3), struck out reference to "the Commonwealth of Puerto Rico," preceding "Guam" in subpars. (A) and (B) and reduced the rate in subpar. (A) from "2" to "1" per centum.

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment of subsec. (b) by Pub. L. 93–380 effective on and after July 1, 1973, see section 104(d) of Pub. L. 93–380, set out as a note under section 861 of this title.

Amendment of subsec. (c)(1) by Pub. L. 93–380 effective on and after July 1, 1974, see section 843(e) of Pub. L. 93–380, set out as a note under section 241g of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 42 section 1107.

PART D.—COUNCILS ON QUALITY IN EDUCATION

§ 868. National Council and State advisory councils.

TERMINATION OF ADVISORY COUNCILS

Advisory Councils in existence on January 5, 1973, to terminate not later than the expiration of the two-year period following January 5, 1973, unless, in the case of a Council established by the President or an officer of the Federal Government, such Council is renewed by appropriate action prior to the expiration of such two-year period, or in the case of a Council established by the Congress, its duration is otherwise provided by law, see sections 3(2) and 14 of Pub. L. 92–463, Oct. 6, 1972, 86 Stat. 770, 776, set out in the Appendix to Title 5, Government Organization and Employees.

SUBCHAPTER IV–A.—BILINGUAL EDUCATION [NEW]

AMENDMENTS

1974—Pub. L. 89–10, title VII, as added Pub. L. 93–380, title I, § 105(a)(1), Aug. 21, 1974, 88 Stat. 503, added heading "Bilingual Education". Pub. L. 89–10, title VII, as added Pub. L. 90–247, title VII, § 702, Jan. 2, 1968, 81 Stat. 816, added prior heading "Bilingual Education Programs."

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 881, 1205, 1262, 1401 of this title.

§ 880b. Congressional declaration of policy; authorization of appropriations.

(a) Recognizing—

(1) that there are large numbers of children of limited English-speaking ability;

(2) that many of such children have a cultural heritage which differs from that of English-speaking persons;

(3) that a primary means by which a child learns is through the use of such child's language and cultural heritage;

(4) that, therefore, large numbers of children of limited English-speaking ability have educational needs which can be met by the use of bilingual educational methods and techniques; and

(5) that, in addition, children of limited English-speaking ability benefit through the fullest utilization of multiple language and cultural resources.

the Congress declares it to be the policy of the United States, in order to establish equal educational opportunity for all children (A) to encourage the establishment and operation, where appropriate, of educational programs using bilingual educational practices, techniques, and methods, and (B) for that purpose, to provide financial assistance to local educational agencies, and to State educational agencies for certain purposes, in order to enable such local educational agencies to develop and carry out such programs in elementary and secondary schools, including activities at the preschool level, which are designed to meet the educational needs of such children; and to demonstrate effective ways of providing, for children of limited English-speaking ability, instruction designed to enable them, while using their native language, to achieve competence in the English language.

(b)(1) Except as is otherwise provided in this subchapter, for the purpose of carrying out the provisions of this subchapter, there are authorized to be appropriated $135,000,000 for the fiscal year ending June 30, 1974; $135,000,000 for the fiscal year ending June 30, 1975; $140,000,000 for the fiscal year ending June 30, 1976; $150,000,000 for the fiscal year ending June 30, 1977; and $160,000,000 for the fiscal year ending June 30, 1978.

(2) There are further authorized to be appropriated to carry out the provisions of section 880b–7(b)(3) of this title $6,750,000 for the fiscal year ending June 30, 1974; $7,250,000 for the fiscal year ending June 30, 1975; $7,750,000 for the fiscal year ending June 30, 1976; $8,750,000 for the fiscal year ending June 30, 1977; and $9,750,000 for the fiscal year ending June 30, 1978.

(3) From the sums appropriated under paragraph (1) for any fiscal year—

(A) the Commissioner shall reserve $16,000,000 of that part thereof which does not exceed $70,000,000 for training activities carried out under clause (3) of subsection (a) of section 880b–7 of this title, and shall reserve for such activities 33⅓ per centum of that part thereof which is in excess of $70,000,000; and

(B) the Commissioner shall reserve from the amount not reserved pursuant to clause (A) of this paragraph such amounts as may be necessary, but not in excess of 1 per centum thereof, for the purposes of section 880b–11 of this title.

(Pub. L. 89–10, title VII § 702, as added Pub. L. 93–380, title I, § 105(a)(1), Aug. 21, 1974, 88 Stat. 503.)

CODIFICATION

A prior section 880b, Pub. L. 89–10, title VII, § 702, as added Pub. L. 90–247, title VII, § 702, Jan. 2, 1968, 81 Stat. 816, provided for Congressional declaration of policy and defined "children of limited English-speaking ability". Such provision remaining in effect through June 30, 1975, to the extent not inconsistent with the amendment made by section 105 of Pub. L. 93–380, see section 105(a)(2)(A) of Pub. L. 93–380, set out as a note hereunder.

EFFECTIVE DATE

Section 105(a)(2)(A) of Pub. L. 93–380 provided that: "The amendment made by this subsection [enacting sections 880b, 880b–1, and 880b–10 to 880b–13 of this title] shall be effective upon the date of enactment of this Act [Aug. 21, 1974], except that the provisions of part A of title VII of the Elementary and Secondary Education Act of 1965 (as amended by subsection (a) of this section) [sections 880b–7 to 880b–9 of this title] shall become effective on July 1, 1975, and the provisions of title VII of the Elementary and Secondary Education Act of 1965 [sections 880b, 880b–1, 880b–2, 880b–3, 880b–3a, 880b–4, and 880b–5 of this title] in effect immediately prior to the date of enactment of this Act [Aug. 21, 1974] shall remain in effect through June 30, 1975, to the extent not inconsistent with the amendment made by this section [enacting sections 880b, 880b–1, and 880b–7 to 880b–13 of this title and provision set out as a note under section 880b–11 of this title]."

SHORT TITLE

Section 701 of Pub. L. 89–10, title VII, as added by Pub. L. 90–247, title VII, § 702, Jan. 2, 1968, 81 Stat. 816, and reenacted by Pub. L. 93–380, title I, § 105(a)(1), Aug. 21, 1974, 88 Stat. 503, provided that: "This title [this subchapter] may be cited as the 'Bilingual Education Act'."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 880b–7, 880b–8, 880b–10 of this title.

§ 880b–1. General provisions.

(a) Definitions; English-speaking children, enrollment; application.

The following definitions shall apply to the terms used in this subchapter:

(1) The term "limited English-speaking ability", when used with reference to an individual, means—

(A) individuals who were not born in the United States or whose native language is a language other than English, and

(B) individuals who come from environments where a language other than English is dominant, as further defined by the Commissioner by regulations;

and, by reason thereof, have difficulty speaking and understanding instruction in the English language.

(2) The term "native language", when used with reference to an individual of limited English-speaking ability, means the language normally used by such individuals, or in the case of a child, the language normally used by the parents of the child.

(3) The term "low-income" when used with respect to a family means an annual income for such a family which does not exceed the low annual income determined pursuant to section 241c of this title.

(4)(A) The term "program of bilingual education" means a program of instruction, designed for children of limited English-speaking ability in elementary or secondary schools, in which, with respect to the years of study to which such program is applicable—

(i) there is instruction given in, and study of, English and, to the extent necessary to allow a child to progress effectively through the educational system, the native language of the children of limited English-speaking ability, and such instruction is given with appreciation for the cultural heritage of such children, and, with respect to elementary school instruction, such instruction shall, to the extent necessary, be in all courses or subjects of study which will allow a child to progress effectively through the educational system; and

(ii) the requirements in subparagraphs (B) through (E) of this paragraph and established pursuant to subsection (b) of this section are met.

(B) A program of bilingual education may make provision for the voluntary enrollment to a limited degree therein, on a regular basis, of children whose language is English, in order that they may acquire an understanding of the cultural heritage of the children of limited English-speaking ability for whom the particular program of bilingual education is designed. In determining eligibility to participate in such programs, priority shall be given to the children whose language is other than English. In no event shall the program be designed for the purpose of teaching a foreign language to English-speaking children.

(C) In such courses or subjects of study as art, music, and physical education, a program of bilingual education shall make provision for the participation of children of limited English-speaking ability in regular classes.

(D) Children enrolled in a program of bilingual education shall, if graded classes are used, be placed, to the extent practicable, in classes with children of approximately the same age and level of educational attainment. If children of significantly varying ages or levels of educational attainment are placed in the same class, the program of bilingual education shall seek to insure that each child is provided with instruction which is appropriate for his or her level of educational attainment.

(E) An application for a program of bilingual education shall be developed in consultation with parents of children of limited English-speaking ability, teachers, and, where applicable, secondary school students, in the areas to be served, and assurances shall be given in the application that, after the application has been approved under this subchapter, the applicant will provide for participation by a committee composed of, and selected by, such parents, and, in the case of secondary schools, representatives of secondary school students to be served.

(5) The term "Office" means the Office of Bilingual Education.

(6) The term "Director" means the Director of the Office of Bilingual Education.

(7) The term "Council" means the National Advisory Council on Bilingual Education.

(8) The term "other programs for persons of limited English-speaking ability" when used in sections 880b–10 and 880b–11 of this title means the program authorized by section 1607(c) of this title and the programs carried out in coordination with the provisions of this subchapter pursuant to section 1262(a)(4)(C) of the title and sections 1393 to 1393f of this title, and section 1205(a)(11) of this title, and programs and projects serving areas with high concentrations of persons of limited English-speaking ability pursuant to section 351d(b)(4) of this title.

(b) Model programs.

The Commissioner, after receiving recommendations from State and local educational agencies and groups and organizations involved in bilingual education, shall establish, publish, and distribute, with respect to programs of bilingual education, suggested models with respect to pupil-teacher ratios, teacher qualifications, and other factors affecting the quality of instruction offered in such programs.

(c) Regulations.

In prescribing regulations under this section, the Commissioner shall consult with State and local educational agencies, appropriate organizations representing parents and children of limited English-speaking ability, and appropriate groups and organizations representing teachers and educators involved in bilingual education. (Pub. L. 89–10, title VII, § 703, as added and amended Pub. L. 93–380, title I, § 105(a)(1), (b), Aug. 21, 1974, 88 Stat. 504, 512.)

CODIFICATION

A prior to section 880b–1, Pub. L. 89–10, title VII, § 703, as added Pub. L. 90–247, title VII, § 702, Jan. 2, 1968, 81 Stat. 816, and amended Pub. L. 91–230, title I, § 151, Apr. 13, 1970, 84 Stat. 151, authorized appropriation of 15,

30, 40, 80, 100, and 135 million dollars for fiscal years ending June 30, 1968 through 1973, respectively, and for distribution of funds.

Section 880b–2, Pub. L. 89–10, title VII, § 704, as added Pub. L. 90–247, title VII, § 702, Jan. 2, 1968, 81 Stat. 817, related to uses for Federal funds.

Section 880b–3a, Pub. L. 89–10, title VII, § 706, as added Pub. L. 90–247, title VII, § 702, Jan. 2, 1968, 81 Stat. 817 related to applications for grants, providing in subsec.: (a) for time of and contents of applications; (b) conditions for approval; and (c) amendments.

Section 880b–3a, Pub. L. 89–10, title VII, § 706, as added Pub. L. 91–230, title I, § 152(a), Apr. 13, 1970, 84 Stat. 151, and amended Pub. L. 92–318, title IV, § 452, June 23, 1972, 86 Stat. 345, provided for children in schools on or near reservations, subsec. (a) relating to local educational agency status of Indian institution or organization and subsec. (b) to payments to Secretary of Interior and criteria for such payments.

Section 880b–4, Pub. L. 89–10, title VII, § 707, formerly 706, as added Pub. L. 90–247, title VII, § 702, Jan. 2, 1968, 81 Stat. 819, and renumbered and amended Pub. L. 91–230, title I, § 152(a), (b), Apr. 13, 1970, 84 Stat. 151, 152, related to payments to applicants.

Section 880b–6, Pub. L. 89–10, title VII, § 709, formerly 708, as added Pub. L. 90–247, title VII, § 702, Jan. 2, 1968, 81 Stat. 819, and renumbered Pub. L. 91–230, title I, § 152(a), Apr. 13, 1970, 84 Stat. 151, related to labor standards requirement (prevailing wage rates), was repealed by Pub. L. 91–230, title IV, § 401(g)(5), Apr. 13, 1970, 84 Stat. 174, and is now covered by section 1232b of this title.

Such provisions, sections 880b–1, 880b–2, 880b–3, 880b–3a, 880b–4, and section 708 of Pub. L. 89–10, as amended, remaining in effect through June 30, 1975, to the extent not inconsistent with the amendment made by section 105 of Pub. L. 93–380, see section 105(a)(2)(A) of Pub. L. 93–380, set out as a note under section 880b of this title.

AMENDMENTS

1974—Subsec. (a)(8). Pub. L. 93–380, § 105(b), added par. (8).

EFFECTIVE DATE

Section effective Aug. 21, 1974, see section 105(a)(2)(A) of Pub. L. 93–380, set out as a note under section 880b of this title.

ADVISORY COMMITTEE ON EDUCATION OF BILINGUAL CHILDREN

Pub. L. 89–10, title VII, § 708, formerly 707, as added Pub. L. 90–247, title VII, § 702, Jan. 2, 1968, 81 Stat. 819, and renumbered and amended Pub. L. 91–230, title I, §§ 152(a), 153, title IV, § 401(h)(3), Apr. 13, 1970, 84 Stat. 151, 152, 174; Pub. L. 93–380, title VIII, § 845(c), Aug. 21, 1974, 88 Stat. 612, provided that:

"(a) The Commissioner shall establish in the Office of Education an Advisory Committee on the Education of Bilingual Children, consisting of fifteen members appointed, without regard to the civil service laws, by the Commissioner with the approval of the Secretary. The Commissioner shall appoint one such member as Chairman. At least seven of the members of the Advisory Committee shall be educators experienced in dealing with the educational problems of children whose native tongue is a language other than English. Subject to section 1233g(b) of this title, the Advisory Committee shall continued [sic] to exist until July 1, 1978."

"(b) The Advisory Committee shall advise the Commissioner in the preparation of general regulations and with respect to policy matters arising in the administration of this subchapter, including the development of criteria for approval of applications thereunder. The Commissioner may appoint such special advisory and technical experts and consultants as may be useful and necessary in carrying out the functions of the Advisory Committee."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 351d, 880b–9, 1205, 1244, 1262, 1401 of this title.

§§ 880b–2 to 880b–5.

Expiration of sections on June 30, 1975, see Codification notes under section 880b–1 of this title.

PART A.—FINANCIAL ASSISTANCE FOR BILINGUAL EDUCATION PROGRAMS

§ 880b–7. Bilingual education programs.

(a) Grants for certain programs and activities.

Funds available for grants under this part shall be used for—

(1) the establishment, operation, and improvement of programs of bilingual education;

(2) auxiliary and supplementary community and educational activities designed to facilitate and expand the implementation of programs described in clause (1), including such activities as (A) adult education programs related to the purposes of this subchapter, particularly for parents of children participating in programs of bilingual education, and carried out, where appropriate, in coordination with programs assisted under the Adult Education Act, and (B) preschool programs preparatory and supplementary to bilingual education programs;

(3)(A) the establishment, operation, and improvement of training programs for personnel preparing to participate in, or personnel participating in, the conduct of programs of bilingual education and (B) auxiliary and supplementary training programs, which shall be included in each program of bilingual education, for personnel preparing to participate in, or personnel participating in, the conduct of such programs; and

(4) planning, and providing technical assistance for, and taking other steps leading to the development of, such programs.

(b) Applications to Commissioner; eligible applicants; time, manner, and information; conditions for approval; provisions, agreements, and assurances of State educational agency applications, including coordination of technical assistance and supplementation not supplantation of funds limitation of payments to State educational agencies.

(1) A grant may be made under this section only upon application therefor by one or more local educational agencies or by an institution of higher education, including a junior or community college, applying jointly with one or more local educational agencies (or, in the case of a training activity described in clause (3)(A) of subsection (a) of this section, by eligible applicants as defined in section 880b–9 of this title). Each such application shall be made to the Commissioner at such time, in such manner, and containing such information as the Commissioner deems necessary, and

(A) include a description of the activities set forth in one or more of the clauses of subsection (a) of this section which the applicant desires to carry out; and

(B) provide evidence that the activities so described will make substantial progress toward making programs of bilingual education available to the children having need thereof in the area served by the applicant.

(2) An application for a grant under this part may be approved only if—

(A) the provision of assistance proposed in the application is consistent with criteria established by the Commissioner, after consultation with the State educational agency, for the purpose of

achieving an equitable distribution of assistance under this part within the State in which the applicant is located, which criteria shall be developed by his taking into consideration (i) the geographic distribution of children of limited English-speaking ability, (ii) the relative need of persons in different geographic areas within the State for the kinds of services and activities described in subsection (a) of this section, (iii) with respect to grants to carry out programs described in clauses (1) and (2) of subsection (a) of this section, the relative ability of particular local educational agencies within the State to provide such services and activities, and (iv) with respect to such grants, the relative numbers of persons from low-income families sought to be benefitted by such programs;

(B) in the case of applications from local educational agencies to carry out programs of bilingual education under clause (1) of subsection (a) of this section, the Commissioner determines that not less than 15 per centum of the amounts paid to the applicant for the purposes of such programs shall be expended for auxiliary and supplementary training programs in accordance with the provisions of clause (3)(B) of such subsection and section 880b–9 of this title;

(C) the Commissioner determines (i) that the program will use the most qualified available personnel and the best resources and will substantially increase the educational opportunities for children of limited English-speaking ability in the area to be served by the applicant, and (ii) that, to the extent consistent with the number of children enrolled in nonprofit, nonpublic schools in the area to be served whose educational needs are of the type which the program is intended to meet, provision has been made for participation of such children; and

(D) the State educational agency has been notified of the application and has been given the opportunity to offer recommendations thereon to the applicant and to the Commissioner.

(3)(A) Upon an application from a State educational agency, the Commissioner shall make provision for the submission and approval of a State program for the coordination by such State agency of technical assistance to programs of bilingual education in such State assisted under this subchapter. Such State program shall contain such provisions, agreements, and assurances as the Commissioner shall, by regulation, determine necessary and proper to achieve the purposes of this subchapter, including assurances that funds made available under this section for any fiscal year will be so used as to supplement, and to the extent practical, increase the level of funds that would, in the absence of such funds be made available by the State for the purposes described in this section, and in no case to supplant such funds.

(B) Except as is provided in the second sentence of this subparagraph, the Commissioner shall pay from the amounts authorized for these purposes pursuant to section 880b of this title for each fiscal year to each State educational agency which has a State program submitted and approved under subparagraph (A) such sums as may be necessary for the proper and efficient conduct of such State program. The amount paid by the Commissioner to any State educational agency under the preceding sentence for any fiscal year shall not exceed 5 per centum of the aggregate of the amounts paid under this part to local educational agencies in the State of such State educational agency in the fiscal year preceding the fiscal year in which this limitation applies.

(c) Distribution of funds; priority to needy areas.

In determining the distribution of funds under this subchapter, the Commissioner shall give priority to areas having the greatest need for programs assisted under this subchapter. (Pub. L. 89–10, title VII, § 721, as added Pub. L. 93–380, title I, § 105(a)(1), Aug. 21, 1974, 88 Stat. 506.)

REFERENCES IN TEXT

Adult Education Act, referred to in subsec. (a)(2), is classified to chapter 30 of this title.

EFFECTIVE DATE

Section effective July 1, 1975, see section 105(a)(2)(A) of Pub. L. 93–380, set out as a note under section 880b of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 880b, 880b–9 of this title.

§ 880b–8. Indian children in schools.

(a) Tribal institution or organization considered to be local educational agency.

For the purpose of carrying out programs under this part for individuals served by elementary and secondary schools operated predominantly for Indian children, a nonprofit institution or organization of the Indian tribe concerned which operates any such school and which is approved by the Commissioner for the purposes of this section may be considered to be a local educational agency as such term is used in this subchapter.

(b) Payments to Secretary of Interior for bilingual education of children on reservations by schools operated or funded by Department of Interior; criteria.

From the sums appropriated pursuant to section 880b(b) of this title, the Commissioner is authorized to make payments to the Secretary of the Interior to carry out programs of bilingual education for children on reservations served by elementary and secondary schools for Indian children operated or funded by the Department of the Interior. The terms upon which payments for such purpose may be made to the Secretary of the Interior shall be determined pursuant to such criteria as the Commissioner determines will best carry out the policy of section 880b(a) of this title.

(c) Annual report to Congress and President; authority or obligation of Director unaffected.

The Secretary of the Interior shall prepare and, not later than November 1 of each year, shall submit to the Congress and the President an annual report detailing a review and evaluation of the use, during the preceding fiscal year, of all funds paid to him by the Commissioner under subsection (b) of this section, including complete fiscal reports, a description of the personnel and information paid for in whole or in part with such funds, the allocation of such

funds, and the status of all programs funded from such payments. Nothing in this subsection shall be construed to relieve the Director of any authority or obligation under this part.

(d) Assessment of needs of Indian children; submittal to Congress and President.

The Secretary of the Interior shall, together with the information required in the preceding subsection, submit to the Congress and the President, an assessment of the needs of Indian children with respect to the purposes of this subchapter in schools operated or funded by the Department of the Interior, including those State educational agencies and local educational agencies receiving assistance under the Johnson-O'Malley Act (section 452 et seq. of Title 25) and an assessment of the extent to which such needs are being met by funds provided to such schools for educational purposes through the Secretary of the Interior. (Pub. L. 89–10, title VII, § 722, as added Pub. L. 93–380, title I, § 105(a)(1), Aug. 21, 1974, 88 Stat. 507.)

EFFECTIVE DATE

Section effective July 1, 1975, see section 105(a)(2)(A) of Pub. L. 93–380, set out as a note under section 880b of this title.

§ 880b–9. Training activities.

(a) Grants and contracts for personnel training, special training programs, and training institutes; fellowships: number, report to congressional committees; stipends; funds limitation; application for purposes of section 880b-1(a)(4)(E) of this title.

(1) In carrying out the provisions of clauses (1) and (3) of subsection (a) of section 880b–7 of this title, with respect to training, the Commissioner shall, through grants to, and contracts with, eligible applicants, as defined in subsection (b) of this section, provide for—

(A) (i) training, carried out in coordination with any other programs training auxiliary educational personnel, designed (I) to prepare personnel to participate in, or for personnel participating in, the conduct of programs of bilingual education, including programs emphasizing opportunities for career development, advancement, and lateral mobility, (II) to train teachers, administrators, paraprofessionals, teacher aides, and parents, and (III) to train persons to teach and counsel such persons, and (ii) special training programs designed (I) to meet individual needs, and (II) to encourage reform, innovation, and improvement in applicable education curricula in graduate education, in the structure of the academic profession, and in recruitment and retention of higher education and graduate school facilities, as related to bilingual education; and

(B) the operation of short-term training institutes designed to improve the skills of participants in programs of bilingual education in order to facilitate their effectiveness in carrying out responsibilities in connection with such programs.

(2) In addition the Commissioner is authorized to award fellowships for study in the field of training teachers for bilingual education. For the fiscal year ending June 30, 1975, not less than 100 fellowships leading to a graduate degree shall be awarded under the preceding sentence for preparing individuals to train teachers for programs of bilingual education. Such fellowships shall be awarded in proportion to the need for teachers of various groups of individuals with limited English-speaking ability. For each fiscal year after June 30, 1975, and prior to July 1, 1978, the Commissioner shall report to the Committee on Education and Labor of the House of Representatives and the Committee on Labor and Public Welfare of the Senate on the number of fellowships in the field of training teachers for bilingual education which he recommends will be necessary for that fiscal year.

(3) The Commissioner shall include in the terms of any arrangement described in paragraphs (1) and (2) of subsection (a) of this section provisions for the payment, to persons participating in training programs so described, of such stipends (including allowances for subsistence and other expenses for such persons and their dependents) as he may determine to be consistent with prevailing practices under comparable federally supported programs.

(4) In making grants or contracts under this section, the Commissioner shall give priority to eligible applicants with demonstrated competence and experience in the field of bilingual education. Funds provided under grants or contracts for training activities described in this section to or with a State educational agency, separately or jointly, shall in no event exceed in the aggregate in any fiscal year 15 per centum of the total amount of funds obligated for training activities pursuant to clauses (1) and (3) of subsection (a) of section 880b–7 of this title in such year.

(5) An application for a grant or contract for preservice or inservice training activities described in clause (A)(i)(I) and clause (A)(ii)(I) and in subsection (a)(1)(B) of this section shall be considered an application for a program of bilingual education for the purposes of subsection (a)(4)(E) of section 880b–1 of this title.

(b) "Eligible applicants" defined.

For the purposes of this section, the term "eligible applicants" means—

(1) institutions of higher education (including junior colleges and community colleges) which apply, after consultation with, or jointly with, one or more local educational agencies;

(2) local educational agencies; and

(3) State educational agencies.

(Pub. L. 89–10, title VII, § 723, as added Pub. L. 93–380, title I, § 105(a)(1), Aug. 21, 1974, 88 Stat. 508.)

EFFECTIVE DATE

Section effective July 1, 1975, see section 105(a)(2)(A) of Pub. L. 93–380, set out as a note under section 880b of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 880b–7 of this title.

PART B.— ADMINISTRATION

§ 880b–10. Office of Bilingual Education.

(a) Execution of functions of Commissioner.

There shall be, in the Office of Education, an Office of Bilingual Education (hereafter in this section referred to as the "Office") through which the

Commissioner shall carry out his functions relating to bilingual education.

(b) Director of Bilingual Education; appointment; delegation of functions.

(1) The Office shall be headed by a Director of Bilingual Education, appointed by the Commissioner, to whom the Commissioner shall delegate all of his delegable functions relating to bilingual education.

(2) The Office shall be organized as the Director determines to be appropriate in order to enable him to carry out his functions and responsibilities effectively.

(c) Report to Congress and President; contents.

The Commissioner, in consultation with the Council, shall prepare and, not later than November 1 of 1975, and of 1977, shall submit to the Congress and the President a report on the condition of bilingual education in the Nation and the administration and operation of this subchapter and of other programs for persons of limited English-speaking ability. Such report shall include—

(1) a national assessment of the educational needs of children and other persons with limited English-speaking ability and of the extent to which such needs are being met from Federal, State, and local efforts, including (A) not later than July 1, 1977, the results of a survey of the number of such children and persons in the States, and (B) a plan, including cost estimates, to be carried out during the five-year period beginning on such date, for extending programs of bilingual education and bilingual vocational and adult education programs to all such preschool and elementary school children and other persons of limited English-speaking ability, including a phased plan for the training of the necessary teachers and other educational personnel necessary for such purpose;

(2) a report on and an evaluation of the activities carried out under this subchapter during the preceding fiscal year and the extent to which each of such activities achieves the policy set forth in section 880b(a) of this title;

(3) a statement of the activities intended to be carried out during the succeeding period, including an estimate of the cost of such activities;

(4) an assessment of the number of teachers and other educational personnel needed to carry out programs of bilingual education under this subchapter and those carried out under other programs for persons of limited English-speaking ability and a statement describing the activities carried out thereunder designed to prepare teachers and other educational personnel for such programs, and the number of other educational personnel needed to carry out programs of bilingual education in the States and a statement describing the activities carried out under this subchapter designed to prepare teachers and other educational personnel for such programs; and

(5) a description of the personnel, the functions of such personnel, and information available at the regional offices of the Department of Health, Education, and Welfare dealing with bilingual programs within that region.

(Pub. L. 89–10, title VII, § 731, as added Pub. L. 93–380, title I, § 105(a)(1), Aug. 21, 1974, 88 Stat. 509.)

EFFECTIVE DATE

Section effective Aug. 21, 1974, see section 105(a)(2)(A) of Pub. L. 93–380, set out as a note under section 880b of this title.

SURVEY BY NATIONAL CENTER FOR EDUCATION STATISTICS

Section 501(b)(4) of Pub. L. 93–380 provided that: "The National Center for Education Statistics shall conduct the survey required by section 731(c)(1)(A) of title VII of the Elementary and Secondary Education Act of 1965 [subsec. (c)(1)(A) of this section]."

Provision effective on and after sixtieth day after Aug. 21, 1974, see section 2(c) of Pub. L. 93–380, set out as a note under section 241b of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 880b–1, 880b–11 of this title.

§ 880b–11. National Advisory Council on Bilingual Education.

(a) Establishment; membership; Chairman; qualifications; representation of interested persons and geographic areas.

Subject to part D of the General Education Provisions Act, there shall be a National Advisory Council on Bilingual Education composed of fifteen members appointed by the Secretary, one of whom he shall designate as Chairman. At least eight of the members of the Council shall be persons experienced in dealing with the educational problems of children and other persons who are of limited English-speaking ability, at least one of whom shall be representative of persons serving on boards of education operating programs of bilingual education. At least three members shall be experienced in the training of teachers in programs of bilingual education. At least two members shall be persons with general experience in the field of elementary and secondary education. At least two members shall be classroom teachers of demonstrated teaching abilities using bilingual methods and techniques. The members of the Council shall be appointed in such a way as to be generally representative of the significant segments of the population of persons of limited English-speaking ability and the geographic areas in which they reside.

(b) Meetings.

The Council shall meet at the call of the Chairman, but, notwithstanding the provisions of section 1233e(a) of this title, not less often than four times in each year.

(c) Duties; report to Congress and President.

The Council shall advise the Commissioner in the preparation of general regulations and with respect to policy matters arising in the administration and operation of this subchapter, including the development of criteria for approval of applications, and plans under this subchapter, and the administration and operation of other programs for persons of limited English-speaking ability. The Council shall prepare and, not later than November 1 of each year, submit a report to the Congress and the President on the condition of bilingual education in the Nation and on the administration and operation of this sub-

chapter, including those items specified in section 880b–10(c) of this title, and the administration and operation of other programs for persons of limited English-speaking ability.

(d) Personnel procurement; staff; information, and other assistance.

The Commissioner shall procure temporary and intermittent services of such personnel as are necessary for the conduct of the functions of the Council, in accordance with section 1233d of this title, and shall make available to the Council such staff, information, and other assistance as it may require to carry out its activities effectively. (Pub. L. 89–10, title VII, § 732, as added Pub. L. 93–380, title I, § 105(a)(1), Aug. 21, 1974, 88 Stat. 510.)

REFERENCES IN TEXT

Part D of General Education Provisions Act, referred to in subsec. (a), is classified to section 1233 et seq. of this title.

EFFECTIVE DATE

Section effective Aug. 21, 1974, see section 105(a)(2)(A) of Pub. L. 93–380, set out as a note under section 880b of this title.

APPOINTMENT OF NATIONAL ADVISORY COUNCIL ON BILINGUAL EDUCATION

Section 105(a)(2)(B) of Pub. L. 93–380 provided that: "The National Advisory Council on Bilingual Education, for which provision is made in section 732 of such act [this section], shall be appointed within ninety days after the enactment of this Act [Aug. 21, 1974]."

Provision effective on and after sixtieth day after Aug. 21, 1974, see section 2(c) of Pub. L. 93–380, set out as a note under section 241b of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 880b, 880b–1 of this title.

PART C.—SUPPORTIVE SERVICES AND ACTIVITIES

§ 880b–12. Administration; regulations; delegation of functions.

(a) The provisions of this part shall be administered by the Assistant Secretary, in consultation with—

(1) the Commissioner, through the Office of Bilingual Education; and

(2) the Director of the National Institute of Education, notwithstanding the second sentence of section 1221e(b)(1) of this title;

in accordance with regulations.

(b) The Assistant Secretary shall, in accordance with clauses (1) and (2) of subsection (a) of this section, develop and promulgate regulations for this part and then delegate his functions under this part, as may be appropriate under the terms of section 880b–13 of this title. (Pub. L. 89–10, title VII, § 741, as added Pub. L. 93–380, title I, § 105(a)(1), Aug. 21, 1974, 88 Stat. 511.)

EFFECTIVE DATE

Section effective Aug. 21, 1974, see section 105(a)(2)(A) of Pub. L. 93–380, set out as a note under section 880b of this title.

§ 880b–13. Research and demonstration projects.

(a) Bilingual education research; statement of purpose.

The National Institute of Education shall, in accordance with the provisions of section 1221e of this title, carry out a program for research in the field of bilingual education in order to enhance the effectiveness of bilingual education programs carried out under this subchapter and other programs for persons of limited English-speaking ability.

(b) Competitive contracts.

In order to test the effectiveness of research findings by the National Institute of Education and to demonstrate new or innovative practices, techniques, and methods for use in such bilingual education programs, the Director and the Commissioner are authorized to make competitive contracts with public and private educational agencies, institutions, and organizations for such purpose.

(c) Studies; instructional materials; national clearinghouse of information.

In carrying out their responsibilities under this section, the Commissioner and the Director shall, through competitive contracts with appropriate public and private agencies, institutions, and organizations—

(1) undertake studies to determine the basic educational needs and language acquisition characteristics of, and the most effective conditions for, educating children of limited English-speaking ability;

(2) develop and disseminate instructional materials and equipment suitable for use in bilingual education programs; and

(3) establish and operate a national clearinghouse of information for bilingual education, which shall collect, analyze, and disseminate information about bilingual education and such bilingual education and related programs.

(d) Periodic consultation with State and local educational agencies and appropriate groups and organizations.

In carrying out their responsibilities under this section, the Commissioner and the Director shall provide for periodic consultation with representatives of State and local educational agencies and appropriate groups and organizations involved in bilingual education.

(e) Authorization of appropriations.

There is authorized to be appropriated for each fiscal year prior to July 1, 1978, $5,000,000 to carry out the provisions of this section. (Pub. L. 89–10, title VII, § 742, as added Pub. L. 93–380, title I, § 105(a)(1), Aug. 21, 1974, 88 Stat. 511.)

EFFECTIVE DATE

Section effective Aug. 21, 1974, see section 105(a)(2)(A) of Pub. L. 93–380, set out as a note under section 880b of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 880b–12 of this title.

SUBCHAPTER V.—GENERAL PROVISIONS

§ 881. Definitions.

As used in titles II, III, IV, V, VI, and VII of this Act, except when otherwise specified—

* * * * *

(As amended Pub. L. 94–193, § 1(c), Dec. 31, 1975, 89 Stat. 1102.)

REFERENCES IN TEXT

Titles II, III, IV, V, VI, and VII of this Act, referred to in the opening par., are titles II, III, IV, V, VI, and VII of Pub. L. 89–10, the Elementary and Secondary Education Act of 1965, which are classified to subchapters I, II, III, and IV–A of this chapter, former subchapter IV of this chapter and chapter 15 of this title.

AMENDMENTS

1975—Opening par. Pub. L. 94–193 substituted "As used in titles II, III, IV, V, VI, and VII of this Act" for "As used in titles II, III, V, VI, and VII of this Act".

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1720, 1966 of this title.

§ 884. Limitations on refund of payments.

No State or local educational agency shall be liable to refund any payment made to such agency under this Act (including title I of this Act) which was subsequently determined to be unauthorized by law, if such payment was made more than five years before such agency received final written notice that such payment was unauthorized. (Pub. L. 89–10, title III, § 804, as added Pub. L. 93–380, title I, § 106, Aug. 21, 1974, 88 Stat. 512.)

REFERENCES IN TEXT

This Act, referred to in text, is the Elementary and Secondary Education Act of 1965, Pub. L. 89–10, as amended. Title I of this Act, referred to in text, probably refers to title I of the Education Amendments of 1974, Pub. L. 93–380. For classification of these Acts to the Code, see Tables.

CODIFICATION

A prior section 884, Pub. L. 89–10, title VIII, § 804, formerly title VI, § 604, Apr. 11, 1965, 79 Stat. 57, renumbered title VII, § 704, and amended Pub. L. 89–750, title I, §§ 161, 181, Nov. 3, 1966, 80 Stat. 1204, 1209, renumbered title VIII, § 804, Pub. L. 90–247, title VII, § 702, Jan. 2, 1968, 81 Stat. 816 prohibited Federal control of education (curriculum, program of instruction, administration, personnel of any educational institution or system, selection of library resources, textbooks, or other printed or published instructional material, and assignment or transportation of students or teachers in order to overcome racial imbalance), was repealed by Pub. L. 91–230, title IV, § 401(f)(5), Apr. 13, 1970, 84 Stat. 173, and is now covered by section 1232a of this title.

EFFECTIVE DATE

Section effective on and after sixtieth day after Aug. 21, 1974, see section 2(c) of Pub. L. 93–380, set out as a note under section 241b of this title.

§ 887. Dropout prevention projects; grants and contracts; approval of arrangements; authorization of appropriations.

* * * * *

(c) For the purpose of carrying out the provisions of this section, there is hereby authorized to be appropriated $30,000,000 for each of the fiscal years ending June 30, 1970, and June 30, 1971, $31,500,000 for the fiscal year ending June 30, 1972, and $33,000,000 for the fiscal year ending June 30, 1973, and each of the five succeeding fiscal years, except that no funds are authorized to be appropriated for obligation during any year for which funds are available for obligation for carrying out part C of title IV. (As amended Pub. L. 93–380, title I, § 107(a), Aug. 21, 1974, 88 Stat. 512.)

REFERENCES IN TEXT

Part C of title IV, referred to in subsec. (c), is classified to section 1831 et seq. of this title.

AMENDMENTS

1974—Subsec. (c). Pub. L. 93–380 authorized appropriation of $33,000,000 for fiscal years ending June 30, 1974, through 1978, except that no funds are authorized to be appropriated for obligation during any year for which funds are available for obligation for carrying out part C of title IV.

EFFECTIVE DATE OF 1974 AMENDMENT

Section 107(b) of Pub. L. 93–380 provided that: "The amendments made by this section [to subsec. (c) of this section] shall be effective on and after July 1, 1973."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1801, 1831 of this title.

§ 887a. School nutrition and health services for children from low-income families.

* * * * *

(d) Authorization of appropriations.

For the purpose of making grants under this section there are hereby authorized to be appropriated $2,000,000 for the fiscal year ending June 30, 1970, $10,000,000 for the fiscal year ending June 30, 1971, $16,000,000 for the fiscal year ending June 30, 1972, and $26,000,000 for the fiscal year ending June 30, 1973, and each of the five succeeding fiscal years, except that no funds are authorized to be appropriated for obligation during any year for which funds are available for obligation for carrying out part C of title IV. (As amended Pub. L. 93–380, title I, § 108(a), Aug. 21, 1974, 88 Stat. 513.)

REFERENCES IN TEXT

Part C of title IV, referred to in subsec. (d), is classified to section 1831 et seq. of this title.

AMENDMENTS

1974—Subsec. (d). Pub. L. 93–380 authorized appropriation of $26,000,000 for fiscal years ending June 30, 1974, through 1978, except that no funds are authorized to be appropriated for obligation during any year for which funds are available for obligation for carrying out part C of title IV.

EFFECTIVE DATE OF 1974 AMENDMENT

Section 108(b) of Pub. L. 93–380 provided that: "The amendments made by this section [to subsec (d) of this section] shall be effective on and after July 1, 1973."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1801, 1831 of this title.

§ 887b. Repealed. Pub. L. 93–380, title IV, § 402(c)(3), Aug. 21, 1974, 88 Stat. 546.

Section, Pub. L. 89–10, title VIII, § 809, as added Pub. L. 91–230, title I, § 164, Apr. 13, 1970, 84 Stat. 154, and amended Pub. L. 93–380, title I, § 109(a), Aug. 21, 1974, 88 Stat. 513, related to correction education services, providing in subsecs. (a) for grants for research and demonstration projects; (b) for appointment and functions of advisory committees and furnishing of advice and recommendations of Federal officials and other persons and organizations to the Commissioner; and (c) for authorization of $500,000 for fiscal years ending June 30, 1974, and 1975.

Section 109(b) of Pub. L. 93–380 made such authorizations effective on and after July 1, 1974.

EFFECTIVE DATE OF REPEAL

Section 402(c)(3) of Pub. L. 93–380 provided for repeal of this section effective July 1, 1975.

§ 887c. Improvement of educational opportunities for Indian children.

(a) Special programs and projects; inservice programs: Indians, preference.

The Commissioner shall carry out a program of making grants for the improvement of educational opportunities for Indian children—

(1) to support planning, pilot, and demonstration projects, in accordance with subsection (b) of this section, which are designed to test and demonstrate the effectiveness of programs for improving educational opportunities for Indian children;

(2) to assist in the establishment and operation of programs, in accordance with subsection (c) of this section, which are designed to stimulate (A) the provision of educational services not available to Indian children in sufficient quantity or quality, and (B) the development and establishment of exemplary educational programs to serve as models for regular school programs in which Indian children are educated;

(3) to assist in the establishment and operation of preservice and inservice training programs, in accordance with subsection (d) of this section, for persons serving Indian children as educational personnel; and

(4) to encourage the dissemination of information and materials relating to, and the evaluation of the effectiveness of, education programs which may offer educational opportunities to Indian children.

In the case of activities of the type described in clause (3) preference shall be given to the training of Indians.

(b) Planning, pilot, and demonstration projects.

The Commissioner is authorized to make grants to State and local educational agencies, federally supported elementary and secondary schools for Indian children and to Indian tribes, organizations, and institutions to support planning, pilot, and demonstration projects which are designed to plan for, and test and demonstrate the effectiveness of, programs for improving educational opportunities for Indian children, including—

(1) innovative programs related to the educational needs of educationally deprived children;

(2) bilingual and bicultural education programs and projects;

(3) special health and nutrition services, and other related activities, which meet the special health, social, and psychological problems of Indian children; and

(4) coordinating the operation of other federally assisted programs which may be used to assist in meeting the needs of such children.

(c) Educational enrichment programs and services.

The Commissioner is also authorized to make grants to State and local educational agencies and to tribal and other Indian community organizations to assist and stimulate them in developing and establishing educational services and programs specifically designed to improve educational opportunities for Indian children. Grants may be used—

(1) to provide educational services not available to such children in sufficient quantity or quality, including—

(A) remedial and compensatory instruction, school health, physical education, psychological, and other services designed to assist and encourage Indian children to enter, remain in, or reenter elementary or secondary school;

(B) comprehensive academic and vocational instruction;

(C) instructional materials (such as library books, textbooks, and other printed or published or audiovisual materials) and equipment;

(D) comprehensive guidance, counseling, and testing services;

(E) special education programs for handicapped;

(F) preschool programs;

(G) bilingual and bicultural education programs; and

(H) other services which meet the purposes of this subsection; and

(2) for the establishment and operation of exemplary and innovative educational programs and centers, involving new educational approaches, methods, and techniques designed to enrich programs of elementary and secondary education for Indian children.

(d) Education personnel; Indians, preference.

The Commissioner is also authorized to make grants to institutions of higher education and to State and local educational agencies, in combination with institutions of higher education, for carrying out programs and projects

(1) to prepare persons to serve Indian children as teachers, teacher aides, social workers, and ancillary educational personnel; and

(2) to improve the qualifications of such persons who are serving Indian children in such capacities.

Grants for the purposes of this subsection may be used for the establishment of fellowship programs leading to an advanced degree, for institutes and, as part of a continuing program, for seminars, symposia, workshops, and conferences. In carrying out the programs authorized by this subsection, preference shall be given to the training of Indians.

(e) Information dissemination; program evaluation.

The Commissioner is also authorized to make grants to and contracts with, public agencies, and institutions and Indian tribes, institutions, and organizations for—

(1) the dissemination of information concerning education programs, services, and resources available to Indian children, including evaluations thereof; and

(2) the evaluation of the effectiveness of federally assisted programs in which Indian children may participate in achieving the purposes of such programs with respect to such children.

(f) Applications for grants; time of submission; information; parental participation; participation of children on equitable basis; priority to Indian entities.

Applications for a grant under this section shall be submitted at such time, in such manner, and shall contain such information, and shall be consistent with such criteria, as may be established as requirements in regulations promulgated by the Commissioner. Such applications shall—

(1) set forth a statement describing the activities for which assistance is sought;

(2) in the case of an application for the purposes of subsection (c) of this section, subject to such criteria as the Commissioner shall prescribe, provide for the use of funds available under this section, and for the coordination of other resources available to the applicant, in order to insure that, within the scope of the purpose of the project, there will be a comprehensive program to achieve the purposes of this section;

(3) in the case of an application for the purposes of subsection (c) of this section, make adequate provision for the training of the personnel participating in the project; and

(4) provide for an evaluation of the effectiveness of the project in achieving its purposes and those of this section.

The Commissioner shall not approve an application for a grant under subsection (b) or (c) of this section unless he is satisfied that such application, and any documents submitted with respect thereto, show that there has been adequate participation by the parents of the children to be served and tribal communities in the planning and development of the project, and that there will be such a participation in the operation and evaluation of the project. In approving applications under this section, the Commissioner shall give priority to applications from Indian educational Agencies, organizations,, and institutions. The Commissioner shall not approve an application for a grant under subsection (b), (c), or (d) of this section unless he is satisfied that such an application, to the extent consistent with the number of eligible children in the area to be served who are enrolled in private nonprofit elementary and secondary schools whose needs are of the type which the program is intended to meet, makes provision for the participation of such children on an equitable basis.

(g) Authorization of appropriations.

For the purpose of making grants under this section there are hereby authorized to be appropriated $25,000,000 for the fiscal year ending June 30, 1973, and $35,000,000 for each of the succeeding fiscal years ending prior to July 1, 1978. (Pub. L. 89–10, title VIII, § 810, as added Pub. L. 92–318, title IV, § 421(a), June 23, 1972, 86 Stat. 339, and amended Pub. L. 93–380, title VI, §§ 631(a), 632(a), Aug. 21, 1974, 88 Stat. 585, 586.)

AMENDMENTS

1974—Subsec. (f). Pub. L. 93–380, § 632(a), inserted prohibition against approval of applications for subsec. (b) through (d) grants unless such applications, to the extent consistent with the number of eligible children in the area to be served who are enrolled in private nonprofit elementary and secondary schools whose needs are of the type which the program is intended to meet, make provision for participation of such children on an equitable basis.

Subsec. (g). Pub. L. 93–380, § 631(a), substituted "succeeding fiscal years ending prior to July 1, 1978" for "two succeeding fiscal years".

EFFECTIVE DATE OF 1974 AMENDMENT

Section 631(c) of Pub. L. 93–380 provided that: "The amendments made by this section [to section 241bb(a)(1) of this title and subsec. (g) of this section] shall be effective on and after July 1, 1973."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1221f, 1221g of this title.

§ 887c–1. Special educational training programs for teachers of Indian children.

(a) Grants and contracts for special programs and projects: priority to Indian entities; fellowships and traineeships: preference to Indians; education allowance grants and contracts.

The Commissioner is authorized to make grants to and enter into contracts with institutions of higher education, Indian organizations, and Indian tribes for the purpose of preparing individuals for teaching or administering special programs and projects designed to meet the special educational needs of Indian children and to provide in-service training for persons teaching in such programs. Priority shall be given to Indian institutions and organizations. In carrying out his responsibilities under this section, the Commissioner is authorized to award fellowships and traineeships to individuals and to make grants to and to enter into contracts with institutions of higher education, Indian organizations, and Indian tribes for cost of education allowances. In awarding fellowships and traineeships under this section, the Commissioner shall give preference to Indians.

(b) Stipends and allowances to recipients of traineeships and fellowships.

In the case of traineeships and fellowships, the Commissioner is authorized to grant stipends to, and allowances for dependents of, persons receiving traineeships and fellowships.

(c) Authorization of appropriations.

There is authorized to be appropriated $2,000,000 for the fiscal year ending June 30, 1975, and for each of the three succeeding fiscal years to carry out the provisions of this section. (Pub. L. 92–318, title IV, § 422, as added Pub. L. 93–380, title VI, § 632(c), Aug. 21, 1974, 88 Stat. 586.)

CODIFICATION

Section was enacted as a part of the Indian Education Act and the Education Amendments of 1974, and not as a part of the Elementary and Secondary Education Act of 1965, which is classified to this chapter.

EFFECTIVE DATE

Section 632(d) of Pub. L. 93–380 provided that: "The amendments made by this section [enacting this section and section 887c–2 of this title] shall be effective on and after July 1, 1974."

§ 887c–2. Fellowships for Indian students.

(a) Number for each fiscal year; graduate and professional program studies; academic year limitations; award of vacated fellowships for remainder of period.

During the fiscal year ending June 30, 1975, and each of the three succeeding fiscal years, the Commissioner is authorized to award not to exceed two

hundred fellowships to be used for study in graduate and professional programs at institutions of higher education. Such fellowships shall be awarded to Indian students in order to enable them to pursue a course of study of not less than three, nor more than four, academic years leading toward a professional or graduate degree in engineering, medicine, law, business, forestry and related fields. In addition to the fellowships authorized to be awarded in the first sentence of this subsection, the Commissioner is authorized to award a number of fellowships equal to the number previously awarded during any fiscal year under this subsection but vacated prior to the end of the period during which they were awarded, except that each fellowship so awarded shall be only for a period of study not in excess of the remainder of the period of time for which the fellowship it replaces was awarded, as the Commission may determine.

(b) Stipends and allowances to recipients of fellowships.

The Commissioner shall pay to persons awarded fellowships under this section such stipends (including such allowances for subsistence of such persons and their dependents) as he may determine to be consistent with prevailing practices under comparable federally supported programs.

(c) Payments in lieu of tuition for holders of fellowships.

The Commissioner shall pay to the institution of higher education at which the holder of a fellowship under this section is pursuing a course of study, in lieu of tuition charged such holder, such amounts as the Commissioner may determine to cover the cost of education for the holder of such a fellowship. (Pub. L. 92–318, title IV, § 423, as added Pub. L. 93–380, title VI, § 632(c), Aug. 21, 1974, 88 Stat. 586.)

CODIFICATION

Section was enacted as a part of the Indian Education Act and the Education Amendments of 1974, and not as a part of the Elementary and Secondary Education Act of 1965, which is classified to this chapter.

EFFECTIVE DATE

Section effective on and after July 1, 1974, see section 632(d) of Pub. L. 93–380, set out as a note under section 887c–1 of this title.

§ 887d. Consumers' education programs.

(a) Office of Consumers' Education; Director: function and appointment.

(1) There shall be within the Office of Education an Office of Consumers' Education (hereafter in this section referred to as the "Office") which shall be headed by a Director of Consumers' Education (hereafter in this section referred to as the "Director") who, subject to the management of the Commissioner, shall have responsibility for carrying out the provisions of this section.

(2) The Director shall be appointed by the Commissioner in accordance with the provisions of Title 5 relating to appointments to the competitive service.

(b) Grants, contract authority; prohibition; use of funds; bilingual assistance; applications: filing, form, contents; State educational agency, notification; program costs; Federal share.

(1)(A) The Director shall carry out a program of making grants to, and contracts with, institutions of higher education, State and local educational agencies, and other public and private agencies, organizations, and institutions (including libraries) to support research, demonstration, and pilot projects designed to provide consumer education to the public except that no grant may be made other than to a nonprofit agency, organization, or institution.

(B) Funds appropriated for grants and contracts under this section shall be available for such activities as—

(i) the development of curricula (including interdisciplinary curricula) in consumer education;

(ii) dissemination of information relating to such curricula;

(iii) in the case of grants to State and local educational agencies and institutions of higher education, for the support of education programs at the elementary and secondary and higher education levels; and

(iv) preservice and inservice training programs and projects (including fellowship programs, institutes, workshops, symposiums, and seminars) for educational personnel to prepare them to teach in subject matter areas associated with consumer education.

In addition to the activities specified in the first sentence of this paragraph, such funds may be used for projects designed to demonstrate, test, and evaluate the effectiveness of any such activities, whether or not assisted under this section. Activities pursuant to this section shall provide bilingual assistance when appropriate.

(C) Financial assistance under this subsection may be made available only upon application to the Director. Applications under this subsection shall be submitted at such time, in such form, and containing such information as the Director shall prescribe by regulation and shall be approved only if it—

(i) provides that the activities and service for which assistance is sought will be administered by, or under the supervision of, the applicant;

(ii) describes a program for carrying out one or more of the purposes set forth in the first sentence of subparagraph (B) which holds promise of making a substantial contribution toward attaining the purposes of this section;

(iii) sets forth such policies and procedures as will insure adequate evaluation of the activities intended to be carried out under the application;

(iv) sets forth policies and procedures which assure that Federal funds made available under this section for any fiscal year will be so used as to supplement and, to the extent practical, increase the level of funds that would, in the absence of such Federal funds, be made available by the applicant for the purposes described in this section, and in no case supplant such funds;

(v) provides for such fiscal control and fund accounting procedures as may be necessary to assure proper disbursement of an accounting for Federal funds paid to the applicant under this section; and

(vi) provides for making an annual report and such other reports, in such form and containing such information, as the Commissioner may reasonably require and for keeping such records, and

for affording such access thereto as the Commissioner may find necessary to assure the correctness and verification of such reports.

Applications from local educational agencies for financial assistance under this section may be approved by the Director only if the State educational agency has been notified of the application and been given the opportunity to offer recommendations.

(2) Federal assistance to any program or project under this subsection, other than those involving curriculum development, dissemination of curricular materials, and evaluation, shall support up to 100 per centum of the cost of such program including costs of administration; contributions in kind are acceptable as local contributions to program costs.

(c) Reports; evaluations.

Each recipient of Federal funds under this section shall make such reports and evaluations as the Commissioner shall prescribe by regulation.

(d) Limitation on fiscal year expenditures.

For the purpose of carrying out this section, the Commissioner is authorized to expend not to exceed $15,000,000 for each fiscal year ending prior to July 1, 1978. (Pub. L. 89–10, title VIII, § 811, as added Pub. L. 92–318, title V, § 505(a)(3), June 23, 1972, 86 Stat. 348, and amended Pub. L. 93–380, title IV, § 407(a), Aug. 21, 1974, 88 Stat. 553.)

AMENDMENTS

1974—Subsec. (a). Pub. L. 93–380, § 407(a)(1), designated existing provisions as par. (1), provided therein for an Office of Consumers' Education and added par. (2).

Subsec. (b)(1)(C)(ii). Pub. L. 93–380, § 407(a)(2), substituted "subparagraph (B)" for "paragraph (2)".

Subsec. (d). Pub. L. 93–380, § 407(a)(3), substituted provisions limiting expenditures to $15,000,000 for each fiscal year ending prior to July 1, 1978, for prior authorization of appropriations in amounts of $20,000,000; $25,000,000; and $35,000,000 for fiscal years ending June 30, 1973, 1974, and 1975.

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment of subsecs. (a) and (b)(1)(C) by Pub. L. 93–380 effective on and after Aug. 21, 1974, see section 410 of Pub. L. 93–380, set out as a note under section 1801 of this title.

Section 407(b) of Pub. L. 93–380 provided that: "The amendments made by paragraph (3) of subsection (a) [to subsec. (d) of this section] shall be effective on and after July 1, 1973."

EFFECTIVE DATE

Section 505(b) of Pub. L. 92–318 provided that: "The amendment made by this section [enacting this section and provisions set out as a note under this section] shall be effective after June 30, 1972."

CONGRESSIONAL DECLARATION OF FINDINGS AND PURPOSE

Section 505(a)(1), (2) of Pub. L. 92–318 provided that: "(a)(1) The Congress of the United States finds that there do not exist adequate resources for educating and informing consumers about their role as participants in the marketplace.

"(2) It is the purpose of the amendment made by this section [enacting this section] to encourage and support the development of new improved curricula to prepare consumers for participation in the marketplace to demonstrate the use of such curriculums in model educational programs and to evaluate the effectiveness thereof; to provide support for the initiation and maintenance of programs in consumer education at the elementary and secondary and higher education levels; to disseminate curricular materials and other information for use in educational programs throughout the Nation; to provide training programs for teachers, other educational personnel, public service personnel, and community and labor leaders and employees, and government employees at State, Federal, and local levels; to provide for Community Consumer education programs; and to provide for the preparation and distribution of materials by mass media in dealing with consumer education."

EX. ORD. NO. 11583. OFFICE OF CONSUMER AFFAIRS

Ex. Ord. No. 11583, Feb. 24, 1971, 36 F.R. 3509, as amended by Ex. Ord. No. 11595, May 26, 1971, 36 F.R. 9763, provided:

Consumer protection fosters a market place in which our competitive economic system flourishes best. It is good for businessmen because it gives the consumer greater confidence in the goods and services provided by business. It is good for consumers because it reinforces the concept of buyers' rights:

—the right to make an intelligent choice among products and services;

—the right to accurate information on which to make a free choice;

—the right to expect that the health and safety of the buyer is taken into account by those who seek his patronage;

—the right to register dissatisfaction, and have a complaint heard and weighed, when a buyer's interests are badly served.

The Special Assistant to the President for Consumer Affairs is performing an important role in representing consumer interests in the Federal Government. It is important that the role of the office of the Special Assistant be reinforced by increasing its responsibilities and reemphasizing its importance.

There is need for a consumer office within the Executive Office of the President, which not only advises and represents the President on matters of consumer interest, but also analyzes and coordinates the implementation of all Federal activities in the field of consumer protection, helping to establish priorities and resolve conflicts, and recommending ways in which governmental consumer programs can be made more effective.

NOW, THEREFORE, by virtue of the authority vested in me as President of the United States, it is ordered as follows:

SECTION. 1. Office of Consumer Affairs. The Office of Consumer Affairs (hereinafter referred to as the "Office") is hereby established in the Executive Office of the President. The Office shall be headed by a Director, who shall be appointed by the President, and there shall be in the Office two Deputy Directors who shall also be appointed by the President. The Deputy Directors shall perform such duties as the Director may designate, and in case of a vacancy in the office of Director or during the absence or incapacity of the Director, the Deputy Directors, in the order designated by the President, shall act as Director. The Director and Deputy Directors shall receive compensation at such rates as the President, consonant with law, may hereafter determine.

SEC. 2. Powers and duties of the Director. (a) The Director shall be responsible for the exercise of the powers and the discharge of the duties of the Office, and shall have the authority to direct and supervise all personnel and activities thereof. The Director shall take all actions as may be necessary to organize the Office so as to carry out the functions and to achieve the purposes set forth in this order.

(b) In addition to any other authority conferred upon him by this order, the Director is authorized, in carrying out his functions hereunder, to—

(1) appoint one or more advisory committees composed of such private citizens and officials of the Federal, State, and local governments as he deems desirable to advise him with respect to his functions. Members of such committees (including the Consumer Advisory Council established in section 5 of this order) other than those regularly employed by the Federal Government, while attending meetings of such committees or otherwise serving at the request of the Director, shall be entitled to receive compensation and travel expenses as authorized by law for persons serving intermittently;

(2) promulgate such rules, regulations, and procedures as may be necessary to carry out the functions vested in him or in the Office, and delegate authority for the per-

formance of any function to any officer or employee under his direction and supervision;

(3) utilize, with their consent, the services, personnel, and facilities of other Federal, State, local and private agencies and instrumentalities with or without reimbursement thereof except as reimbursement may be required by law; and

(c) The Director shall report priodically to the President on significant developments affecting the interests of consumers together with such recommendations including legislative recommendations as he deems appropriate.

SEC. 3. Functions. (a) The Office shall advise the President as to all matters affecting the interest of consumers.

(b) The Office shall—

(1) with respect to consumer interests in Federal policies and programs, encourage and assist in development and implementation of consumer programs; coordinate and review policies and programs; seek resolution of conflicts; advise and made recommendations to Federal agencies with respect to policy matters, the effectiveness of their programs and operations, and the elimination of duplications;

(2) assure that the interests of consumers are presented and considered in a timely manner by the appropriate levels of the Federal Government in the formulation of policies and in the operation of programs that affect the consumer interest;

(3) conduct investigations, conferences, and surveys concerning the needs, interests and problems of consumers, except that it shall, where feasible, avoid duplicating activities conducted by other Federal agencies;

(4) submit recommendations to the President on how Federal programs and activities affecting consumers can be improved;

(5) take action with respect to consumer complaints to the extent authorized by section 4 of this order;

(6) perform the functions assigned to the President's Committee on Consumer Interests in Executive Order No. 11566 of October 26, 1970;

(7) encourage and coordinate the development of information of interest to consumers by Federal agencies and the publication and distribution of materials which will inform consumers of matters of interest to them in language which is readily understandable by the layman;

(8) encourage and coordinate research conducted by Federal agencies leading to improved consumer products, services, and consumer information;

(9) encourage, initiate, coordinate, evaluate, and participate in consumer education programs and consumer counseling programs;

(10) encourage, cooperate with, and assist State and local governments in the promotion and protection of consumer interests; and

(11) cooperate with and encourage private enterprise in the promotion and protection of consumer interest.

SEC. 4. Consumer complaints. (a) Whenever the Office receives from any source complaints or other information disclosing a possible violation of (1) any law of the United States or (2) any rule or order of any Federal agency concerning consumer interests, the Office shall promptly transmit such complaint or other information to the Federal agency charged with the duty of enforcing such law, rule, or order, for appropriate action.

(b) Whenever the Office receives complaints or other information disclosing any commercial or trade practice which it deems detrimental to the general interests of consumers within the United States, and which is not included within the category specified in subsection (a) of this section, the Office may transmit such complaint or other information promptly to the Federal, State, or local agency whose regulatory or other authority provides the most effective means to act upon them; the Office may in its discretion also refer such complaint or other information to the private persons or industry against whom the complaint is made.

SEC. 5. Consumer Advisory Council. (a) There is hereby established in the Office a Consumer Advisory Council to be composed of not more than 12 members appointed by the President. Members shall be appointed on the basis of their knowledge and experience in areas of interest to consumers and their demonstrated ability to exercise independent, informed, and critical judgment.

(b) (1) Members shall be appointed for two-year terms. Members of the Consumer Advisory Council, established pursuant to Executive Order No. 11136 of January 3, 1964, as amended, shall continue in office in accordance with the terms of their original appointments.

(2) Any member chosen to fill a vacancy shall be appointed for the unexpired term of the member he succeeds.

(3) A vacancy in the Council shall not affect its authority to act, and a majority of the members thereof shall constitute a quorum.

(c) The President shall designate the Chairman from among the members composing the Council. The Council shall meet at the call of the Director. The Director shall be an ex-officio member of the Council and its Executive Secretary.

(d) The Council shall advise the Director with respect to—

(1) policy matters relating to consumer interests; and

(2) the effectiveness of Federal programs and operations, which affect the interests of consumers; and

(3) problems of primary importance to consumers, and ways in which unmet consumer needs can appropriately be met through Federal Government action.

SEC. 6. Consideration of the consumer interest in Federal agency determinations. Every Federal agency in taking any action of a nature which can reasonably be construed as substantially affecting the interests of consumers of products and services, including, but not limited to, (1) the promulgation of rules, regulations, or guidelines, (2) the formulation of written policy decisions, or (3) the issuance of orders, decrees, or standards, shall, in taking such action, give due consideration to the valid interests of consumers.

SEC. 7. Abolition of Committee and Council. Except as otherwise provided herein, the President's Committee on Consumer Interests and the Consumer Advisory Council established under Executive Order No. 11136 of January 3, 1964, as amended by Executive Order No. 11349 of May 1, 1967, are abolished.

SEC. 8. Construction. Nothing in this order shall be construed as subjecting any function vested by law in, or assigned pursuant to law to, any Federal agency or the head thereof to the authority of any other agency or officer or as abrogating or restricting any such function in any manner.

SEC. 9. Orders superseded. Executive Order No. 11136 of January 3, 1964, and Executive Order No. 11349 of May 1, 1967, are hereby superseded.

RICHARD NIXON.

EXTENSION OF TERM OF CONSUMER ADVISORY COUNCIL

Term of the Consumer Advisory Council extended until Jan. 5, 1977, unless otherwise sooner terminated, see Ex. Ord. No. 11827, Jan. 4, 1975, 40 F.R. 1217, set out as a note under section 14 of Appendix I of Title 5, Government Organization and Employees.

EX. ORD. NO. 11702. TRANSFER OF OFFICE OF CONSUMER AFFAIRS

Ex. Ord. No. 11702, Jan. 25, 1973, 38 F.R. 2957, provided:

Under and by virtue of the authority vested in me by section 301 of title 3 of the United States Code [section 301 of title 3, The President] and as President of the United States of America, it is hereby ordered as follows:

SECTION 1. The Office of Consumer Affairs, established by Executive Order No. 11583 of February 24, 1971, as amended by Executive Order No. 11595 of May 26, 1971 [set out as a note under this section], together with its functions, is hereby transferred from the Executive Office of the President to the Department of Health, Education, and Welfare. The Director of the Office of Consumer Affairs shall continue as the Special Assistant to the President for Consumer Affairs.

SEC. 2. In view of the establishment of the Council on Economic Policy, the Cabinet Committee on Economic Policy, together with its functions, is hereby abolished and Executive Order No. 11453 of January 24, 1969, is hereby revoked.

RICHARD NIXON.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1861 of this title.

§ 887e. Open meetings of educational agencies.

No application for assistance under this Act may be considered unless the local educational agency making such application certifies to the Commissioner that members of the public have been afforded the opportunity upon reasonable notice to testify or otherwise comment regarding the subject matter of the application. The Commissioner is authorized and directed to establish such regulations as necessary to implement this section. (Pub. L. 89–10, title VIII, § 812, as added Pub. L. 93–380, title I, § 110, Aug. 21, 1974, 88 Stat. 513.)

REFERENCES IN TEXT

"This Act", referred to in text, is the Elementary and Secondary Education Act of 1965, Pub. L. 89–10, as amended. For classification in the Code of Pub. L. 89–10, as amended, see Short Title note set out under section 821 of this title, and also, Tables Volume.

EFFECTIVE DATE

Section effective on and after sixtieth day after Aug. 21, 1974, see section 2(c) of Pub. L. 93–380, set out as a note under section 241b of this title.

SUBCHAPTER VI.—ETHNIC HERITAGE PROGRAM [NEW]

§ 900. Congressional statement of policy.

In recognition of the heterogeneous composition of the Nation and of the fact that in a multiethnic society a greater understanding of the contributions of one's own heritage and those of one's fellow citizens can contribute to a more harmonious, patriotic, and committed populace, and in recognition of the principle that all persons in the educational institutions of the Nation should have an opportunity to learn about the differing and unique contributions to the national heritage made by each ethnic group, it is the purpose of this subchapter to provide assistance designed to afford to students opportunities to learn about the nature of their own cultural heritage, and to study the contributions of the cultural heritages of the other ethnic groups of the Nation. (Pub. L. 89–10, title IX, § 901, as added Pub. L. 92–318, title V, § 504(a), June 23, 1972, 86 Stat. 346.)

EFFECTIVE DATE

Section 504(b) of Pub. L. 92–318 provided that: "The amendment made by subsection (a) [enacting this subchapter] shall be effective after June 30, 1972."

§ 900a. Ethnic heritage studies programs.

The Commissioner is authorized to make grants to, and contracts with, public and private nonprofit educational agencies, institutions, and organizations to assist them in planning, developing, establishing, and operating ethnic heritage studies programs, as provided in this subchapter. (Pub. L. 89–10, title IX, § 902, as added Pub. L. 92–318, title V, § 504(a), June 23, 1972, 86 Stat. 347.)

EFFECTIVE DATE

Section effective after June 30, 1972, see section 504(b) of Pub. L. 92–318, set out as a note under section 900 of this title.

§ 900a–1. Authorized activities.

Each program assisted under this subchapter shall—

(1) develop curriculum materials for use in elementary or secondary schools or institutions of higher education relating to the history, geography, society, economy, literature, art, music, drama, language, and general culture of the group or groups with which the program is concerned, and the contributions of that ethnic group or groups to the American heritage; or

(2) disseminate curriculum materials to permit their use in elementary or secondary schools or institutions of higher education throughout the Nation; or

(3) provide training for persons using, or preparing to use, curriculum materials developed under this subchapter; and

(4) cooperate with persons and organizations with a special interest in the ethnic group or groups with which the program is concerned to assist them in promoting, encouraging, developing, or producing programs or other activities which relate to the history, culture, or traditions of that ethnic group or groups.

(Pub. L. 89–10, title IX, § 903, as added Pub. L. 92–318, title V, § 504(a), June 23, 1972, 86 Stat. 347, and amended Pub. L. 93–380, title I, § 111(b), Aug. 21, 1974, 88 Stat. 513.)

AMENDMENTS

1974—Cl. (1). Pub. L. 93–380, § 111(b)(1), (3), substituted "or" for "and" in the words "elementary or secondary schools or institutions of higher education" and inserted the word "or" at the end of cl. (1).

Cl. (2). Pub. L. 93–380, § 111(b) (2), (4), substituted "or" for "and" in the words "elementary or secondary schools or institutions of higher education" and inserted the word "or" at the end of cl. (2).

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment by Pub. L. 93–380 effective on and after sixtieth day after Aug. 21, 1974, see section 2(c) of Pub. L. 93–380, set out as a note under section 241b of this title.

EFFECTIVE DATE

Section effective after June 30, 1972, see section 504(b) of Pub. L. 92–318, set out as a note under section 900 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 900a–2 of this title.

§ 900a–2. Applications for assistance.

(a) Approval, conditions.

Any public or private nonprofit agency, institution, or organization desiring assistance under this subchapter shall make application therefor in accordance with the provisions of this subchapter and other applicable law and with regulations of the Commissioner promulgated for the purposes of this subchapter. The Commissioner shall approve an application under this subchapter only if he determines that—

(1) the program for which the application seeks assistance will be operated by the applicant and that the applicant will carry out such program in accordance with this subchapter;

(2) such program will involve the activities described in section 900a–1 of this title; and

(3) such program has ben planned, and will be carried out, in consultation with an advisory council which is representative of the ethnic group or groups with which the program is concerned and which is appointed in a manner prescribed by regulation.

(b) Program coordination.

In approving applications under this subchapter, the Commissioner shall insure that there is cooperation and coordination of efforts among the programs assisted under this subchapter, including the exchange of materials and information and joint programs where appropriate. (Pub. L. 89–10, title IX, § 904, as added Pub. L. 92–318, title V, § 504(a), June 23, 1972, 86 Stat. 347.)

EFFECTIVE DATE

Section effective after June 30, 1972, see section 504(b) of Pub. L. 92–318, set out as a note under section 900 of this title.

§ 900a–3. Administrative provisions; funds, usage.

(a) In carrying out this subchapter, the Commissioner shall make arrangements which will utilize (1) the research facilities and personnel of institutions of higher education, (2) the special knowledge of ethnic groups in local communities and of foreign students pursuing their education in this country, (3) the expertise of teachers in elementary and secondary schools and institutions of higher education, and (4) the talents and experience of any other groups such as foundations, civil groups, and fraternal organizations which would further the goals of the programs.

(b) Funds appropriated to carry out this subchapter may be used to cover all or part of the cost of establishing and carrying out the programs, including the cost of research materials and resources, academic consultants, and the cost of training of staff for the purpose of carrying out the purposes of this subchapter. Such funds may also be used to provide stipends (in such amounts as may be determined in accordance with regulations of the Commissioner) to individuals receiving training as part of such programs, including allowances for dependents. (Pub. L. 89–10, title IX, § 905, as added Pub. L. 92–318, title V, § 504(a), June 23, 1972, 86 Stat. 347.)

EFFECTIVE DATE

Section effective after June 30, 1972, see section 504(b) of Pub. L. 92–318, set out as a note under section 900 of this title.

§ 900a–4. National Advisory Council on Ethnic Heritage Studies.

(a) Establishment; composition; appointment; service; compensation.

There is hereby established a National Advisory Council on Ethnic Heritage Studies consisting of fifteen members appointed by the Secretary who shall be appointed, serve, and be compensated as provided in part D of the General Education Provisions Act.

(b) Duties and functions.

Such Council shall, with respect to the program authorized by this subchapter, carry out the duties and functions specified in part D of the General Education Provisions Act. (Pub. L. 89–10, title IX, § 906, as added Pub. L. 92–318, title V, § 504(a), June 23, 1972, 86 Stat. 348.)

REFERENCES IN TEXT

Part D of the General Education Provisions Act, referred to in subsecs. (a) and (b), is classified to section 1233 et seq. of this title.

EFFECTIVE DATE

Section effective after June 30, 1972, see section 504(b) of Pub. L. 92–318, set out as a note under section 900 of this title.

TERMINATION OF ADVISORY COUNCILS

Advisory Councils in existence on January 5, 1973, to terminate not later than the expiration of the two-year period following January 5, 1973, unless, in the case of a Council established by the President or an officer of the Federal Government, such Council is renewed by appropriate action prior to the expiration of such two-year period, or in the case of a Council established by the Congress, its duration is otherwise provided for by law, sections 3(2) and 14 of Pub. L. 92–463, Oct. 6, 1972, 86 Stat. 770, 776, set out in the Appendix to Title 5, Government Organization and Employees.

§ 900a–5. Authorization of appropriations.

For the purpose of carrying out this subchapter, there are authorized to be appropriated $15,000,000 for each of the fiscal years ending prior to July 1, 1978. Sums appropriated pursuant to this section shall, notwithstanding any other provision of law unless enacted in express limitation of this sentence, remain available for expenditure and obligation until the end of the fiscal year succeeding the fiscal year for which they were appropriated. (Pub. L. 89–10, title IX, § 907, as added Pub. L. 92–318, title V, § 504(a), June 23, 1972, 86 Stat. 348, and amended Pub. L. 93–380, title I, § 111(a)(1), Aug. 21, 1974, 88 Stat. 513.)

AMENDMENTS

1974—Pub. L. 93–380 substituted "each of the fiscal years ending prior to July 1, 1978" for "the fiscal year ending June 30, 1973".

EFFECTIVE DATE OF 1974 AMENDMENT

Section 111(a)(2) of Pub. L. 93–380 provided that: "The amendments made by this subsection [to this section] shall be effective on and after July 1, 1973."

EFFECTIVE DATE

Section effective after June 30, 1972, see section 504(b) of Pub. L. 92–318, set out as a note under section 900 of this title.

Chapter 25.—PAY AND PERSONNEL PROGRAM FOR OVERSEAS TEACHERS

§ 905. Quarters, quarters allowances, and storage.

DELEGATION OF FUNCTIONS

Authority of the President under subsec. (a) of this section to prescribe regulations relating to storage (including packing, drayage, unpacking, and transportation to and from storage) of household effects and personal possessions delegated to the Administrator of General Services, see section 1(19) of Ex. Ord. No. 11609, July 22, 1971, 36 F.R. 13747, set out as a note under section 301 of Title 3, The President.

Chapter 26.—NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in section 2104 of this title.

§ 951. Congressional declaration of purpose.

The Congress hereby finds and declares—

* * * * *

(7) that, in order to implement these findings, it is desirable to establish a National Foundation on the Arts and the Humanities.

(As amended Pub. L. 93–133, § 2(a)(1), Oct. 19, 1973, 87 Stat. 462.)

AMENDMENTS

1973—Cl. (7). Pub. L. 93–133 struck out provisions relating to strengthening the responsibilities of the Office of Education with respect to education in the arts and the humanities.

EFFECTIVE DATE OF 1973 AMENDMENT

Section 2(b) of Pub. L. 93–133 provided that: "The amendments made by subsection (a) [amending this section and sections 952, 954 to 960 of this title and repealing sections 962 and 963 of this title] shall be effective on and after July 1, 1973."

SHORT TITLE.

Section 1 of Pub. L. 93–133 provided: "That this Act [amending this section and sections 351a, 952, 954 to 960 of this title, repealing sections 962 and 963 of this title, and enacting provisions set out as notes under this section and section 351a of this title] may be cited as the 'National Foundation on the Arts and the Humanities Amendments of 1973'."

§ 952. Definitions.

As used in this chapter—

* * * * *

(d) The term "project" means programs organized to carry out the purposes of this chapter, including programs to foster American artistic creativity, to commission works of art, to create opportunities for individuals to develop artistic talents when carried on as a part of a program otherwise included in this definition, and to develop and enhance public knowledge and understanding of the arts, and includes, where appropriate, rental or purchase of facilities, purchase or rental of land, and acquisition of equipment. Such term also includes—

(1) the renovation of facilities if (A) the amount of the expenditure of Federal funds for such purpose in the case of any project does not exceed $250,000, or (B) two-thirds of the members of the National Council on the Arts (who are present and voting) approve of the grant or contract involving an expenditure for such purpose; and

(2) the construction of facilities if (A) such construction is for demonstration purposes or under unusual circumstances where there is no other manner in which to accomplish an artistic purpose, and (B) two-thirds of the members of the National Council on the Arts (who are present and voting) approve of the grant or contract involving an expenditure for such purpose.

* * * * *

(As amended Pub. L. 93–133, § 2(a)(2), Oct. 19, 1973, 87 Stat. 462.)

AMENDMENTS

1973—Subsec. (d). Pub. L. 93–133 substituted "or purchase of facilities" for ", purchase, renovation, or construction of facilities" and added pars. (1) and (2).

EFFECTIVE DATE OF 1973 AMENDMENT

Amendment by Pub. L. 93–133 effective on and after July 1, 1973, see section 2(b) of Pub. L. 93–133, set out as a note under section 951 of this title.

§ 954. National Endowment for the Arts.

* * * * *

(c) Contracts with, or grants-in-aid to, groups or individuals for projects and productions; standards.

The Chairman, with the advice of the National Council on the Arts, is authorized to establish and carry out a program of contracts with, or grants-in-aid to, groups or, in appropriate cases, individuals of exceptional talent engaged in or concerned with the arts, for the purpose of enabling them to provide or support in the United States—

(1) projects and productions which have substantial artistic and cultural significance, giving emphasis to American creativity and the maintenance and encouragement of professional excellence;

(2) projects and productions, meeting professional standards or standards of authenticity, irrespective of origin, which are of significant merit and which, without such assistance, would otherwise be unavailable to our citizens for geographic or economic reasons;

(3) projects and productions that will encourage and assist artists and enable them to achieve wider distribution of their works, to work in residence at an educational or cultural institution, or to achieve standards of professional excellence;

* * * * *

(5) other relevant projects, including surveys, research, planning, and publications relating to the purposes of this subsection.

In the case of publications under clause (5) of this subsection such publications may be supported without regard for the provisions of section 501 of Title 44 only if the Chairman consults with the Joint Committee on Printing of the Congress and the Chairman submits to the Committee on Labor and Public Welfare of the Senate and the Committee on Education and Labor of the House of Representatives a report justifying any exemption from such section 501.

* * * * *

(g) Grants to States for projects and productions: standards; application; terms and conditions of State plans; minimum allotment of funds to States; equal allotment of remaining funds among the States; exclusions from the term "State"; equal allotments to States due to insufficient funds; limitation on amount of allotment; allotment of excess amounts.

(1) The Chairman, with the advice of the National Council on the Arts, is authorized to establish and carry out a program of grants-in-aid to assist the several States in supporting existing projects and productions which meet the standards enumerated in subsection (c) of this section, and in developing projects and productions in the arts in such a manner as will furnish adequate programs, facilities, and services in the arts to all the people and communities in each of the several States.

(2) In order to receive assistance under this subsection in any fiscal year, a State shall submit an application for such grants at such time as shall be specified by the Chairman and accompany such application with a plan which the Chairman finds—

* * * * *

(B) provides that funds paid to the State under this subsection will be expended solely on projects and productions approved by the State agency which carry out one or more of the objectives of subsection (c) of this section; and

* * * * *

(3) Of the sums available to carry out this subsection for any fiscal year, each State which has a plan approved by the Chairman shall be allotted at least $200,000. If the sums appropriated are insufficient to make the allotments under the preceding sentence in full, such sums shall be allotted among such States in equal amounts. In any case where the sums available to carry out this subsection for any fiscal year are in excess of the amount required to make the allotments under the first sentence of this paragraph—

(A) the amount of such excess which is no greater than 25 per centum of the sums available to carry out this subsection for any fiscal year shall be available only to the Chairman for making grants under this subsection to States and regional groups, and

(B) the amount of such excess, if any, which remains after reserving in full for the Chairman the amount required under clause (A) shall be allotted among the States which have plans approved by the Chairman in equal amounts

but in no event shall any State be allotted less than $200,000.

(4)(A) The amount of any allotment made under paragraph (3) for any fiscal year which exceeds $125,000 shall be available, at the discretion of the Chairman, to pay up to 100 per centum of such cost of projects and productions if such project and productions would otherwise be unavailable to the residents of that State: *Provided*, That the total amount of any such allotment for any fiscal year which is exempted from such [1] 50 per centum limitation shall not exceed 20 per centum of the total of such allotment for such fiscal year.

(B) Any amount allotted to a State under the first sentence of paragraph (3) for any fiscal year which is not obligated by the State prior to 60 days prior to the end of the fiscal year for which such sums are appropriated shall be available for making grants to regional groups.

(C) Funds made available under this subsection shall not be used to supplant non-Federal funds.

(D) For the purpose of paragraph (3) and paragraph (4) of this section the term "regional group" means any multistate group, whether or not representative of contiguous States.

(5) All amounts allotted or made available under paragraph (3) for a fiscal year which are not granted to a State during such year shall be available at the end of such year to the National Endowment for the Arts for the purpose of carrying out subsection (c) of this section.

* * * * *

(As amended Pub. L. 93–133, § 2(a)(3), (4), Oct. 19, 1973, 87 Stat. 462, 463.)

[1] So in amendment by Pub. L. 93–133.

AMENDMENTS

1973—Subsec. (c). Pub. L. 93–133, § 3, in the opening paragraph, struck out reference to the Federal Council on the Arts and Humanities, in cl. (1), substituted "projects and productions" for "production", in cl. (2), substituted "projects and productions" and "for geographic or economic reasons" for "production" and "in many areas of the country" respectively, in cl. (3), substituted "projects and productions" for "projects", in cl. (5), substituted ", planning, and publications relating to the purposes of this subsection" for "and planning in the arts", and added paragraph following cl. (5).

Subsec. (g)(1). Pub. L. 93–133, § 2(a)(4)(A), struck out reference to the Federal Council on the Arts and Humanities.

Subsec. (g)(2). Pub. L. 93–133, § 2(a)(4)(B), (C), in provisions preceding cl. (A), substituted "assistance under this subsection" and "at such time as shall be specified by the Chairman" for "such assistance" and "prior to the first day of such fiscal year" respectively, and in cl. (B), eliminated exception that in the first fiscal year in which the state was allotted funds after Sept. 29, 1965, the plan may provide that amount not exceeding $25,000 will be expended to conduct a study to plan the development and the establishment of a state agency.

Subsec. (g)(3). Pub. L. 93–133, § 2(a)(4)(D), added par. (3) and deleted former par. (3) which read: "From the sums appropriated to carry out the purposes of this subsection for any fiscal year, not less than $65,000 shall be alloted to each State. That part of such sums as may remain after such allotment shall be allotted among the States in equal amounts, except that for the purposes of this sentence the term "State" shall not include Guam and American Samoa. If the sums appropriated for any fiscal year to carry out the purposes of this subsection are insufficient to satisfy allotments under the first sentence of this paragraph, such sums shall be allotted among the States in equal amounts."

Subsec. (g)(4). Pub. L. 93–133, § 2(a)(4)(D), added par. (4) and deleted former par. (4) which read: "The amount of each allotment to a State for any fiscal year under this subsection shall be available to each State, which has a plan approved by the Chairman in effect on the first day of such fiscal year, to pay not more than 50 per centum of the total cost of any project or production described in paragraph (1), and to pay up to 100 per centum of the cost of conducting a study and establishing a State agency under paragraph (2)(B) of this subsection."

Subsec. (g)(5). Pub. L. 93–133, § 2(a)(4)(E), substituted "All amounts allotted or made available" for "All amounts allotted".

EFFECTIVE DATE OF 1973 AMENDMENT

Amendment by Pub. L. 93–133 effective on and after July 1, 1973, see section 2(b) of Pub. L. 93–133, set out as a note under section 951 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 959, 960 of this title; title 42 section 4519.

§ 955. National Council on the Arts.

* * * * *

(f) Advisory functions; policies, programs, and procedures; review of applications for financial assistance; recommendations prerequisite to action of the Chairman; unilateral action by Chairman pursuant to delegation of authority.

The Council shall (1) advise the Chairman with respect to policies, programs, and procedures for carrying out his functions, duties, or responsibilities under this chapter, and (2) review applications for financial assistance under this chapter and make recommendations thereon to the Chairman. The Chairman shall not approve or disapprove any such application until he has received the recommendation of the Council on such application, unless the Council fails to make a recommendation thereon

within a reasonable time. In the case of an application involving $17,500 or less, the Chairman may approve or disapprove such request if such action is taken pursuant to the terms of a delegation of authority from the Council to the Chairman, and provided that each such action by the Chairman shall be reviewed by the Council; *Provided,* That the terms of any such delegation of authority shall not permit obligations for expenditure of funds under such delegation for any fiscal year which exceed an amount equal to 10 per centum of the sums appropriated for that fiscal year pursuant to subparagraph (A) of paragraph (1) of section 960(a) of this title. (As amended Pub. L. 93–133, § 2(a)(5), Oct. 19, 1973, 87 Stat. 463.)

AMENDMENTS

1973—Subsec. (f). Pub. L. 93–133 substituted "$17,500" for "$10,000" and added proviso that the terms of delegation of authority shall not permit obligations for expenditure of funds under such delegation for any fiscal year which exceed an amount equal to 10 per centum of the sums appropriated for that fiscal year.

EFFECTIVE DATE OF 1973 AMENDMENT

Amendment by Pub. L. 93–133 effective on and after July 1, 1973, see section 2(b) of Pub. L. 93–133, set out as a note under section 951 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 959 of this title.

§ 956. National Endowment for the Humanities.

* * * * *

(c) National policy; research and programs; fellowships and grants for training and workshop activities; interchange of information; education, public understanding and appreciation; publications.

The Chairman, with the advice of the National Council on the Humanities (hereinafter established), is authorized to—

* * * * *

(2) initiate and support research and programs to strengthen the research and teaching potential of the United States in the humanities by making arrangements (including contracts, grants, loans, and other forms of assistance) with individuals or groups to support such activities; any loans made by the Endowment shall be made in accordance with terms and conditions approved by the Secretary of the Treasury;

* * * * *

(5) foster, through grants or other arrangements with groups, education in, and public understanding and appreciation of the humanities;

(6) support the publication of scholarly works in the humanities; and

(7) insure that the benefit of its programs will also be available to our citizens where such programs would otherwise be unavailable due to geographic or economic reasons.

In the case of publications under clause (6) of this subsection such publications may be supported without regard for the provisions of section 501 of Title 44 only if the Chairman consults with the Joint Committee on Printing of the Congress and the Chairman submits to the Committee on Labor and Public Welfare of the Senate and the Committee on Education and Labor of the House of Representatives a report justifying any exemption from such section 501.

(d) Correlation and development of Endowment programs with other Federal and non-Federal programs.

The Chairman shall correlate the programs of the National Endowment for the Humanities, insofar as practicable, with existing Federal programs, designated State humanities agencies and with those undertaken by other public agencies or private groups, and shall develop the programs of the Endowment with due regard to the contribution to the objectives of this chapter which can be made by other Federal agencies under existing programs.

* * * * *

(As amended Pub. L. 93–133, §§ 2(a)(6), 3, Oct. 19, 1973, 87 Stat. 464, 465.)

AMENDMENTS

1973—Subsec. (c). Pub. L. 93–133, § 2(a)(6), in provisions preceding par. (1), struck out reference to the Federal Council on the Arts and the Humanities, in par. (2), added proviso that loans made by the Endowment shall be made in accordance with terms and conditions approved by the Secretary of the Treasury, in par. (6), struck out reference to section 111 of Title 44, and added par. (7) and provisions following par. (7).

Subsec. (d). Pub. L. 93–133, § 3, required the Chairman to correlate the programs of the National Endowment for the Humanities with designated State humanities agencies.

EFFECTIVE DATE OF 1973 AMENDMENT

Amendment of subsec. (c) by section 2(a)(6) of Pub. L. 93–133 effective on and after July 1, 1973, see section 2(b) of Pub. L. 93–133, set out as a note under section 951 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 959, 960 of this title.

§ 957. National Council on the Humanities.

* * * * *

(f) Advisory functions: policies, programs, and procedures; review of applications for financial support; recommendations prerequisite to action of the Chairman; unilateral action by Chairman pursuant to delegation of authority.

The Council shall (1) advise the Chairman with respect to policies, programs, and procedures for carrying out his functions, and (2) shall review applications for financial support and make recommendations thereon to the Chairman. The Chairman shall not approve or disapprove any such application until he has received the recommendation of the Council on such application, unless the Council fails to make a recommendation thereon within a reasonable time. In the case of any application involving $17,500, or less, the Chairman may approve or disapprove such request if such action is taken pursuant to the terms of a delegation of authority from the Council to the Chairman, and provided that each such action by the Chairman shall be reviewed by the Council: *Provided,* That the terms of any such delegation of authority shall not permit obligations for expenditure of funds under such delegation for any fiscal year which exceed an amount equal to 10 per centum of the sums appropriated for that fiscal year pursuant to subparagraph (B) of paragraph (1) of section 960(a) of this title. (As amended Pub. L. 93–133, § 2(a)(7), Oct. 19, 1973, 87 Stat. 464.)

AMENDMENTS

1973—Subsec. (f). Pub. L. 93–133 substituted "$17,500" for "$10,000" and added proviso that the terms of delegation of authority shall not permit obligations for expenditure of funds under such delegation for any fiscal year which exceeds an amount equal to 10 per centum of the sums appropriated for that fiscal year.

EFFECTIVE DATE OF 1973 AMENDMENT

Amendment by Pub. L. 93–133 effective on and after July 1, 1973, see section 2(b) of Pub. L. 93–133, set out as a note under section 951 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 959 of this title.

§ 958. Federal Council on the Arts and the Humanities.

* * * * *

(b) Composition; Chairman, designation by President; changes in membership to meet changes in programs or executive branch organization.

The Council shall be composed of the Chairman of the National Endowment for the Arts, the Chairman of the National Endowment for the Humanities, the United States Commissioner of Education, the Secretary of the Smithsonian Institution, the Director of the National Science Foundation, the Librarian of Congress, the Director of the National Gallery of Art, the Chairman of the Commission of Fine Arts, the Archivist of the United States, the Commissioner, Public Buildings Service, General Services Administration, a member designated by the Secretary of State, and a member designated by the Secretary of the Interior, a member designated by the Chairman of the Senate Commission on Art and Antiquities, and a member designated by the Speaker of the House. The President shall designate the Chairman of the Council from among the members. The President is authorized to change the membership of the Council from time to time as he deems necessary to meet changes in Federal programs or executive branch organization.

* * * * *

(As amended Pub. L. 93–133, § 2(a)(8), Oct. 19, 1973, 87 Stat. 464.)

AMENDMENTS

1973—Subsec. (b). Pub. L. 93–133 included the Commissioner, Public Buildings Service, General Service Administration, a member designated by the Secretary of the Interior, a member designated by the Chairman of the Senate Commission on Art and Antiquities, and a member designated by the Speaker of the House, as members of the Federal Council on the Arts and Humanities.

EFFECTIVE DATE OF 1973 AMENDMENT

Amendment by Pub. L. 93–133 effective on and after July 1, 1973, see section 2(b) of Pub. L. 93–133, set out as a note under section 951 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 971 of this title.

§ 959. Administrative provisions.

(a) General authority of the Chairman; rules for distribution of donations; bequests, and devises; gifts with or without conditions; transfers for tax purposes.

In addition to any authorities vested in them by other provisions of this chapter, the Chairman of the National Endowment for the Arts and the Chairman of the National Endowment for the Humanities, in carrying out their respective functions, shall each have authority—

* * * * *

(2) in the discretion of the Chairman of an Endowment, after receiving the recommendation of the National Council of that Endowment, to receive money and other property donated, bequeathed, or devised to that Endowment with or without a condition or restriction, including a condition that the Chairman use other funds of that Endowment for the purposes of the gift, except that a Chairman may receive a gift without a recommendation from the Council to provide support for any application or project which can be approved without Council recommendation under the provisions of sections 955(f) and 957(f) of this title, and may receive a gift of $15,000, or less, without Council recommendation in the event the Council fails to provide such recommendation within a reasonable period of time, and to use, sell, or otherwise dispose of such property for the purpose of carrying out sections 954(c) and 956(c) of this title;

* * * * *

(4) to utilize from time to time, as appropriate, experts and consultants, including panels of experts, who may be employed as authorized by section 3109 of Title 5: *Provided, however,* That any advisory panel appointed to review or make recommendations with respect to the approval of applications or projects for funding shall have broad geographic representation;

(5) to accept and utilize the services of voluntary and uncompensated personnel and reimburse them for travel expenses, including per diem, as authorized by section 5703 of Title 5 for persons in the Government service employed without compensation;

* * * * *

(As amended Pub. L. 93–133, § 2(a)(9), (10), Oct. 19, 1973, 87 Stat. 465.)

CODIFICATION

In subsecs. (a)(4) and (5), references to "section 3109 of Title 5" and "section 5703 of Title 5" were substituted for "section 15 of the Administrative Expenses Act of 1946, as amended (5 U.S.C. 55a)" and "by law (5 U.S.C. 73b–2)" on authority of section 7(b) of Pub. L. 89–554, Sept. 6, 1966, 80 Stat. 631, section 1 of which enacted Title 5, Government Organization and Employees.

AMENDMENTS

1973—Subsec. (a)(2). Pub. L. 93–133, § 2(a)(9), added exception that a Chairman may receive a gift without a recommendation from the Council to provide support for any application or project which can be approved without Council recommendation under the provisions of sections 955(f) and 957(f) of this title, and may receive a gift of $15,000 or less without Council recommendation when the Council fails to recommend within a reasonable period of time.

Subsec. (a)(4). Pub. L. 93–133, § 2(a)(10), added proviso that any advisory panel appointed to review or make recommendations with respect to the approval of applications or projects for funding shall have broad geographic representation.

EFFECTIVE DATE OF 1973 AMENDMENT

Amendment by Pub. L. 93–133 effective on and after July 1, 1973, see section 2(b) of Pub. L. 93–133, set out as a note under section 951 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 960 of this title.

§ 960. Authorization of appropriations.

(a) Contracts or grants-in-aid to groups and individuals for projects and productions; activities authorized by the Chairman of the National Endowment for the Humanities; grants to States; donations, bequests, and devises, limitation of amount.

(1)(A) For the purpose of carrying out section 954(c) of this title, there are authorized to be appropriated to the National Endowment for the Arts, $54,000,000 for the fiscal year ending June 30, 1974, $90,000,000 for the fiscal year ending June 30, 1975, and $113,500,000 for the fiscal year ending June 30, 1976. For the purpose of carrying out section 954(g) of this title, there are authorized to be appropriated to the National Endowment for the Arts $11,000,000 for the fiscal year ending June 30, 1974. Not less than 20 per centum of the funds appropriated under the first sentence of this paragraph for the fiscal years ending June 30, 1975, and June 30, 1976, may be used only for the purpose of carrying out section 954(g) of this title.

(B) For the purposes of carrying out section 956(c) of this title, there are authorized to be appropriated to the National Endowment for the Humanities $65,000,000 for the fiscal year ending June 30, 1974, $90,000,000 for the fiscal year ending June 30, 1975, and $113,500,000 for the fiscal year ending June 30, 1976.

(2) There are authorized to be appropriated for each fiscal year ending prior to July 1, 1976, to the National Endowment for the Arts and to the National Endowment for the Humanities, an amount equal to the total amounts received by each Endowment under section 959(a)(2) of this title, except that the amount so appropriated for any fiscal year shall not exceed the following limitations:

(A) For the fiscal year ending June 30, 1974, $15,000,000.

(B) For the fiscal year ending June 30, 1975, $20,000,000.

(C) For the fiscal year ending June 30, 1976, $25,000,000.

(b) Availability of appropriated unexpended funds; notice of availability of funds by advance appropriation.

(1) Sums appropriated pursuant to subsection (a) of this section for any fiscal year shall remain available for obligation and expenditure until expended.

(2) In order to afford adequate notice to interested persons of available assistance under this chapter, appropriations authorized under subsection (a) of this section are authorized to be included in the measure making appropriations for the fiscal year preceding the fiscal year for which such appropriations become available for obligation.

* * * * *

(As amended Pub. L. 93–133, § 2(a)(11), Oct. 19, 1973, 87 Stat. 465.)

REFERENCES IN TEXT

This chapter, referred to in subsecs. (b)(2), (c), read in the original "this Act", meaning Pub. L. 89–209 for distribution of which in the Code see References in Text note under section 952 of this title.

AMENDMENTS

1973—Subsec. (a)(1). Pub. L. 93–133 incorporated into subpar. (A) provisions relating to the authorization of appropriation for carrying out section 954(c) of this title, substituted authorization of appropriation for fiscal years ending June 30, 1974, 1975, 1976 for such authorization for fiscal years 1969 through 1973, and added provisions for authorization of appropriation for carrying out section 954(g) of this title, and, in subpar. (B), incorporated provisions of former subsec. (a) relating to authorization of appropriation for carrying out section 956(c) of this title, and substituted authorization of appropriation for fiscal years ending June 30, 1974, 1975, and 1976, for such authorization for 1969 through 1973.

Subsec. (a)(2). Pub. L. 93–133 incorporated provisions of former subsec. (b) relating to matching grants and substituted new limitations for fiscal years ending June 30, 1974, 1975, and 1976 for such limitations for 1969 through 1973.

Subsec. (b)(1). Pub. L. 93–133 incorporated provisions formerly contained in subsecs. (a) and (b) relating to the availability of unexpended appropriated funds.

Subsec. (b)(2). Pub. L. 93–133 added subsec. (b)(2).

EFFECTIVE DATE OF 1973 AMENDMENT

Amendment by Pub. L. 93–133 effective on and after July 1, 1973, see section 2(b) of Pub. L. 93–133, set out as a note under section 951 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 955, 957 of this title.

§§ 962, 963. Repealed. Pub. L. 93–133, § 2(a)(12), Oct. 19, 1973, 87 Stat. 465.

Section 962, Pub. L. 89–209, § 13, Sept. 29, 1965, 79 Stat. 855, provided for appropriation to the Commissioner of Education of funds for grants and contracts for operation of institutes to strengthen the teaching of humanities and the arts.

Section 963, Pub. L. 89–209, § 14, Sept. 29, 1965, 79 Stat. 855, requested the President to make appointments within ninety days after Sept. 29, 1965.

EFFECTIVE DATE OF REPEAL

Repeal of sections effective on and after July 1, 1973, see section 2(b) of Pub. L. 93–133, set out as a note under section 951 of this title.

Chapter 26A.—INDEMNITY FOR EXHIBITIONS OF ARTS AND ARTIFACTS [NEW]

Sec.

971. Authority of Federal Council on the Arts and Humanities to make agreements to indemnify against loss or damage.
972. Items eligible for indemnity agreements.
973. Application for indemnity agreement.
974. Council approval of estimated values; maximum limits of indemnity.
975. Regulations for prompt adjustment of claims; certification of claims.
976. Authorization of appropriations.
977. Annual report to Congress.

§ 971. Authority of Federal Council on the Arts and Humanities to make agreements to indemnify against loss or damage.

(a) The Federal Council on the Arts and Humanities (hereinafter in this chapter referred to as the "Council"), established under section 958 of this title, is authorized to make agreements to indemnify against loss or damage such items as may be eligible for such indemnity agreements under section 972 of this title—

(1) in accordance with the provisions of this chapter; and

(2) on such terms and conditions as the Council shall prescribe, by regulation, in order to

achieve the purposes of this chapter and, consistent with such purposes, to protect the financial interest of the United States.

(b) For purposes of this chapter, the Council shall be an "agency" within the meaning of the appropriate definitions of such term in Title 5. (Pub. L. 94–158, § 2, Dec. 20, 1975, 89 Stat. 844.)

EFFECTIVE DATE

Section 9 of Pub. L. 94–158 provided that: "This Act [this chapter] shall become effective 30 days after the date of the enactment of this Act [Dec. 20, 1975]."

SHORT TITLE

Section 1 of Pub. L. 94–158 provided that: "This Act [enacting this chapter and provisions set out as notes under this section] may be cited as the 'Arts and Artifacts Indemnity Act'."

§ 972. Items eligible for indemnity agreements.

(a) The Council may make an indemnity agreement under this chapter with respect to—

(1) works of art, including tapestries, paintings, sculpture, folk art, graphics, and craft arts;

(2) manuscripts, rare documents, books, and other printed or published materials;

(3) other artifacts or objects; and

(4) photographs, motion pictures, or audio and video tape;

which are (A) of educational, cultural, historical, or scientific value, and (B) the exhibition of which is certified by the Secretary of State or his designee as being in the national interest.

(b) (1) An indemnity agreement made under this chapter shall cover eligible items while on exhibition in the United States, or elsewhere when part of an exchange of exhibitions, but in no case shall both parts of such an exchange be so covered.

(2) For purposes of this subsection, the term "on exhibition" includes that period of time beginning on the date the eligible items leave the premises of the lender or place designated by the lender and ending on the date such items are returned to the premises of the lender or place designated by the lender. (Pub. L. 94–158, § 3, Dec. 20, 1975, 89 Stat. 844.)

EFFECTIVE DATE

Section effective 30 days after Dec. 20, 1975, see section 9 of Pub. L. 94–158, set out as a note under section 971 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 971, 973 of this title.

§ 973. Application for indemnity agreement.

(a) Any person, nonprofit agency, institution, or government desiring to make an indemnity agreement for eligible items under this chapter shall make application therefor in accordance with such procedures, in such form, and in such manner as the Council shall, by regulation, prescribe.

(b) An application under subsection (a) of this section shall—

(1) describe each item to be covered by the agreement (including an estimated value of such item);

(2) show evidence that the items are eligible under section 972(a) of this title; and

(3) set forth policies, procedures, techniques, and methods with respect to preparation for, and conduct of, exhibition of the items, and any transportation related to such items.

(c) Upon receipt of an application under this section, the Council shall, if such application conforms with the requirements of this chapter, approve the application and make an indemnity agreement with the applicant. Upon such approval, the agreement shall constitute a contract between the Council and the applicant pledging the full faith and credit of the United States to pay any amount for which the Council becomes liable under such agreement. The Council, for such purpose, is hereby authorized to pledge the full faith and credit of the United States. (Pub. L. 94–158, § 4, Dec. 20, 1975, 89 Stat. 845.)

EFFECTIVE DATE

Section effective 30 days after Dec. 20, 1975, see section 9 of Pub. L. 94–158, set out as a note under section 971 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 974 of this title.

§ 974. Council approval of estimated values; maximum limits of indemnity.

(a) Upon receipt of an application meeting the requirements of subsections (a) and (b) of section 973 of this title, the Council shall review the estimated value of the items for which coverage by an indemnity agreement is sought. If the Council agrees with such estimated value, for the purposes of this chapter, the Council shall, after approval of the application as provided in subsection (c) of section 973 of this title, make an indemnity agreement.

(b) The aggregate of loss or damage covered by indemnity agreements made under this chapter shall not exceed $250,000,000 at any one time.

(c) No indemnity agreement for a single exhibition shall cover loss or damage in excess of $50,000,000.

(d) Coverage under this chapter shall only extend to loss or damage in excess of the first $15,000 of loss or damage resulting from a single exhibition. (Pub. L. 94–158, § 5, Dec. 20, 1975, 89 Stat. 845.)

EFFECTIVE DATE

Section effective 30 days after Dec. 20, 1975, see section 9 of Pub. L. 94–158, set out as a note under section 971 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 975 of this title.

§ 975. Regulations for prompt adjustment of claims; certification of claims.

(a) The Council shall prescribe regulations providing for prompt adjustment of valid claims for losses which are covered by an agreement made pursuant to section 974 of this title, including provision for arbitration of issues relating to the dollar value of damages involving less than total loss or destruction of such covered objects.

(b) In the case of a claim of loss with respect to an item which is covered by an agreement made pursuant to section 974 of this title, the Council shall certify the validity of the claim and the amount of the loss to the Speaker of the House of

Representatives and the President pro tempore of the Senate. (Pub. L. 94–158, § 6, Dec. 20, 1975, 89 Stat. 845.)

EFFECTIVE DATE

Section effective 30 days after Dec. 20, 1975, see section 9 of Pub. L. 94–158, set out as a note under section 971 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 976 of this title.

§ 976. Authorization of appropriations.

There are hereby authorized to be appropriated such sums as may be necessary (1) to enable the Council to carry out its functions under this chapter, and (2) to pay claims certified pursuant to section 975(b) of this title. (Pub. L. 94–158, § 7, Dec. 20, 1975, 89 Stat. 846.)

EFFECTIVE DATE

Section effective 30 days after Dec. 20, 1975, see section 9 of Pub. L. 94–158, set out as a note under section 971 of this title.

§ 977. Annual report to Congress.

The Council shall report annually to the Congress (1) all claims actually paid pursuant to this chapter during the preceding fiscal year, (2) pending claims against the Council under this chapter as of the close of that fiscal year, and (3) the aggregate face value of contracts entered into by the Council which are outstanding at the close of that fiscal year. (Pub. L. 94–158, § 8, Dec. 20, 1975, 89 Stat. 846.)

EFFECTIVE DATE

Section effective 30 days after Dec. 20, 1975, see section 9 of Pub. L. 94–158, set out as a note under section 971 of this title.

Chapter 28.—HIGHER EDUCATION RESOURCES AND STUDENT ASSISTANCE

SUBCHAPTER I.—COMMUNITY SERVICE PROGRAM GRANTS

Sec.

1005a. Special programs and projects relating to national and regional problems; limitation [New].

1008a. Special programs and projects relating to problems of the elderly [New].
- (a) Grants to institutions of higher education.
- (b) Authorization of appropriations.
- (c) Administrative coordination with programs for older Americans.

SUBCHAPTER II.—LIBRARY ASSISTANCE

1021. College library programs [New].
- (a) Financial assistance.
- (b) Authorization of appropriations.
- (c) Definitions.

PART A.—COLLEGE LIBRARY RESOURCES

1022. Basic grants; authorization; maximum amount; applications.

PART B.—LIBRARY TRAINING AND RESEARCH GRANTS

1031. Training and research programs [New].

PART C.—ASSISTANCE TO LIBRARY OF CONGRESS FOR ACQUISITION AND CATALOGING OF LIBRARY MATERIAL

1042. Evaluation and report to Congressional committees [New].

SUBCHAPTER III.—STRENGTHENING DEVELOPING INSTITUTIONS

1051. Special assistance.
- (a) Duty of Commissioner.
- (b) Authorization of appropriations.

Sec.

1052. Eligibility for special assistance.
- (a) Developing institution defined; waiver of requirements.
- (b) Application for special assistance; time of submission; form; contents; approval by Commissioner.
- (c) Junior or community college defined.

1053. Advisory Council on Developing Institutions.
- (a) Establishment; membership; appointment.
- (b) Duties and functions of Council.

1054. Grants and awards.
- (a) Authority of Commissioner.
- (b) Uses of funds; cooperative arrangements; National Teaching Fellowships; Professors Emeritus Grants.
- (c) Application approval conditions; criteria for use of grants; stipend and dependent allowance; limitation.

1055. Assistance to developing institutions under other programs.
- (a) Waivers, eligibility.
- (b) Other specified programs; regulations.
- (c) Non-Federal share requirement.

1056. Prohibition against use of funds for religious activities.

SUBCHAPTER IV.—STUDENT ASSISTANCE

PART A.—GRANTS TO STUDENTS IN ATTENDANCE AT INSTITUTIONS OF HIGHER EDUCATION [NEW]

1070. Statement of purpose; program authorization.

Subpart 1.—Basic Educational Opportunity Grants

1070a. Basic educational opportunity grants: amount and determinations; applications.
- (a) Student payments; basic grant formula; reductions schedule; limitations; actual cost of attendance; effective date; submittal to Congress; family contributions; regulations, criteria; effective family income; noncredit remedial course of study; publications in Federal Register.
- (b) Payments; insufficient available funds, entitlements; excess funds.

Subpart 2.—Supplemental Educational Opportunity Grants

1070b. Purpose; authorization of appropriations; initial year payment provisions.

1070b–1. Amount and duration of grants.
- (a) Limitation; student financial aid; basic criteria and schedules.
- (b) Five-year programs; academic and attendance standards; nonattendance.

1070b–2. Selection of recipients; agreements with institutions.
- (a) Eligibility requirements.
- (b) Institutional agreement provisions.

1070b–3. Apportionment and allocation of funds; apportionment ratio; State apportionment; consolidation; excess, reapportionment; time for applications; equitable criteria for allocations; payments from allocations.

Subpart 3.—Grants to States for State Student Incentives

1070c. Purpose; authorization of appropriations; initial awards.

1070c–1. Allotment among States.

1070c–2. Applications for State student incentive grant programs.

1070c–3. Administration of State programs; judicial review.
- (a) Noncompliance, notification.
- (b) Appeal; fact findings, modification; jurisdiction.

Subpart 4.—Special Programs for Students From Disadvantaged Backgrounds

Sec.
1070d. Program authorization.
(a) Authority of Commissioner.
(b) Authorization of appropriations.
1070d–1. Authorized activities.
(a) Grants and contracts, authorization.
(b) Talent Search; Upward Bound; Special Services for Disadvantaged Students; Educational Opportunity Centers.
(c) Enrollees; stipend; limitation.
(d) English language instruction.

Subpart 5.—Assistance to Institutions of Higher Education

1070e. Payments to institutions of higher education.
1070e–1. Payments to institutions of higher education.

PART B.—FEDERAL, STATE, AND PRIVATE PROGRAMS OF LOW-INTEREST INSURED LOANS TO STUDENTS IN INSTITUTIONS OF HIGHER EDUCATION

1087–1. Eligibility of institutions [New].
(a) Regulations: audit, standards of financial responsibility and institutional capability, and limitation, suspension, or termination of eligibility.
(b) List of State agencies, publication.
1087–2. Student Loan Marketing Association [New].
(a) Congressional declaration of purposes.
(b) Establishment; tax exemption; authorization of appropriations; advances, interest.
(c) Board of Directors.
(d) Insured student loans, servicing, limitation.
(e) Nondiscrimination.
(f) Common stock.
(g) Nonvoting preferred stock.
(h) Outstanding obligations; authorization of appropriations.
(i) Powers of Association.
(j) Annual audit; report to Treasury.
(k) Same; report to President and Congress.
(l) Lawful investments.
(m) Obligations; preparation and delivery; reimbursement.
(n) Operations and activities; report to President and Congress.

PART D.—DIRECT LOANS TO STUDENTS IN INSTITUTIONS OF HIGHER EDUCATION [NEW]

1087aa. Low-interest loans.
(a) Student loan fund establishment and maintenance program.
(b) Authorization of appropriations.
(c) Availability of appropriations for apportionment and payment of Federal capital contributions.
1087bb. Apportionment of appropriations.
(a) Amount.
(b) Agreement and application requirements; filing time; installment payments for prevention of unnecessary accumulation of capital in student loan fund.
(c) Bases for reductions and increases in requests; reapportionment of excess funds.
(d) Limitations.
1087cc. Agreements with institutions of higher education.
(a) Terms and provisions.
(b) Administrative expenses.
1087dd. Terms and conditions of loans.
(a) General provision; limitation on aggregate amount of loan for student; regulations.
(b) Eligibility conditions; suspension of eligibility and regaining good standing.
(c) Written instruments for loans; repayment, deferral.
(d) Reasonable availability of loans to eligible students.
(e) Veteran students in need.

Sec.
1087ee. Cancellation of loans for certain public service.
(a) Amount; description of public service; definition of "handicapped children" and "year".
(b) Payments to institutions to cover reductions in amounts of loans.
1087ff. Distribution of assets from student loan funds.
(a) Capital distribution.
(b) Payments to Commissioner.
(c) Capital distribution from funds with excess liquid assets.

PART E.—GENERAL PROVISIONS RELATING TO STUDENT ASSISTANCE PROGRAMS

Subpart 1.—General Provisions

1088d. Furnishing guidelines to Congressional committees [New].
1088e. Transfers between programs [New].
1088f. Eligibility for student assistance [New].
(a) Conviction of crimes involving force, disruption, or seizure of property of educational institution.
(b) Refusal to obey regulations or orders; disruption of administration of institution.
(c) Other misconduct; disciplinary proceedings; freedom of expression.
1088g. Affidavit of educational purpose required [New].

SUBCHAPTER V.—EDUCATION PROFESSIONS DEVELOPMENT

PART D.—TRAINING PROGRAMS FOR EDUCATION PERSONNEL OTHER THAN HIGHER EDUCATION PERSONNEL

1119a. Teachers for Indian children; Indians, preference [New].

SUBCHAPTER VII.—CONCTRUCTION OF ACADEMIC FACILITIES [NEW]

PART A.—GRANTS FOR CONSTRUCTION OF UNDERGRADUATE ACADEMIC FACILITIES

1132a. Authorization of appropriations.
1132a–1. Allotments for public community colleges and technical institutes.
(a) Sums available for allotments.
(b) Basis of computation; minimum amount.
(c) Availability of funds for payment of Federal share of development costs.
(d) Reallotment of unreserved funds at close of fiscal year; factors considered.
(e) Allotment ratio; specification and promulgation.
(f) High school graduate defined.
1132a–2. Allotments for institutions of higher education other than public community colleges and public technical institutes.
(a) Appropriations available for allotments.
(b) Considerations and determinations affecting; limitation.
(c) Availability of funds.
(d) Reallotment of unreserved funds at close of fiscal year; factors considered.
1132a–3. State plans.
(a) Submission, time and manner; contents.
(b) Approval by Commissioner.
1132a–4. Eligibility of institutions for grants; expansion of student enrollment capacity.
1132a–5. Basic criteria for determining priorities and Federal share; limitation; rule making procedure applicable to prescription of regulations.
1132a–6. Applications for grants.
(a) Submission of applications by institutions; conditions for approval.
(b) Amendments of applications.
(c) Amount of grant; reservation and payment.

Sec.
1132a–7. Disapproval of State plans and judicial review.
(a) Notice and hearing; findings of Commissioner; notification of non-eligibility.
(b) Appeal by State of Commissioner's final action to court of appeals; findings of Commissioner conclusive if substantially supported; remand for taking further evidence; new or modified findings conclusive if supported; jurisdiction of court of appeals; review by Supreme Court.

PART B.—GRANTS FOR CONSTRUCTION OF GRADUATE ACADEMIC FACILITIES

1132b. Statement of purpose; authorization of appropriations.
1132b–1. Grants.
(a) Institutions eligible; application required; maximum amount of payments in any year.
(b) Action by panel of specialists required for application approval.
(c) Maximum allowable percentile of development cost.

PART C.—LOANS FOR CONSTRUCTION OF ACADEMIC FACILITIES

1132c. Authorization.
(a) Lending authority.
(b) Appropriations.
1132c–1. Eligibility conditions, amounts and terms of loans.
1132c–2. General provisions for loan program.
(a) Transactions of Commissioner final and conclusive.
(b) Additional powers and duties of Commissioner.
1132c–3. Revolving Loan Fund and Insurance Fund.
(a) Creation; limitation on loans.
(b) Operation of fund; sale of assets, beneficial interests, and participations in assets of the fund; interest; deferral.
1132c–4. Annual interest grants.
(a) Power of Commissioner.
(b) Maximum period and amount; approval by Secretary.
(c) Authorization of appropriations; aggregate amount of contracts.
(d) Maximum amount of funds usable in one State.
(e) Prerequisites; nature of financing.
1132c–5. Academic facilities loan insurance.

PART D.—ASSISTANCE IN MAJOR DISASTER AREAS

1132d. Authorization of appropriations.
1132d–1. Assistance for construction of academic facilities.
1132d–2. Equipment and supplies.
1132d–3. Repayable assistance in lieu of a grant.
1132d–4. Applications for assistance.
1132d–5. Definitions.

PART E.—GENERAL PROVISIONS

1132e. Recovery of payments.
1132e–1. Definitions.

SUBCHAPTER VIII.—NETWORKS FOR KNOWLEDGE

SUBCHAPTER IX.—GRADUATE PROGRAMS [NEW]

PART A.—GRANTS TO INSTITUTIONS OF HIGHER EDUCATION

1134. Congressional declaration of purpose; authorization of appropriations.
1134a. Applications for grants.
(a) Requirements of applications.
(b) Approval by Commissioner.
1134b. Authorized activities; prohibits.
1134c. Research and studies.

PART B.—GRADUATE FELLOWSHIPS FOR CAREERS IN POSTSECONDARY EDUCATION

Sec.
1134d. Authorization of appropriations.
1134e. Number of fellowships; award of vacated fellowships.
1134f. Award of fellowships and approval of institutions.
(a) Bases for awards; approval by Commissioner.
(b) Criteria for determination of priorities and procedures.
(c) Recipients of fellowships.
(d) Prohibition against awards for study at divinity institution.
1134g. Payments.
(a) Fellowship stipends.
(b) Allowances to institution in lieu of tuition.
1134h. Fellowship conditions; progress reports; certificate.

PART C.—PUBLIC SERVICE FELLOWSHIPS

1134i. Award of public service fellowships.
(a) Number of fellowships.
(b) Authorization of appropriations.
1134j. Allocation of fellowships.
1134k. Approval of programs.
1134*l*. Payments.
(a) Fellowship stipends.
(b) Allowances to institution.
1134m. Fellowship conditions; progress reports; certificate; prohibition against awards for study at divinity institution.

PART D.—FELLOWSHIPS FOR OTHER PURPOSES

1134n. Program authorization.
(a) Statement of purpose; regulations.
(b) Number of fellowships; appropriation limitation; award of vacated fellowships.
(c) Advanced degree or doctoral dissertation.
1134o. Award of fellowships.
1134p. Payments.
(a) Fellowship stipends; allowance for dependents.
(b) Allowances to institutions.
(c) Travel allowances.
1134q. Fellowship conditions; progress reports; certificate; prohibition against awards for study at divinity institution.
1134r. Authorization of appropriations.
1134r–1. Assistance for training in legal profession.
(a) Grant and contract authorization of Commissioner; eligible individuals.
(b) Description of activities; regulations.
(c) Requirements and limitations of sections 1134o and 1134p of this title inapplicable.

PART F.—GENERAL ASSISTANCE TO GRADUATE SCHOOLS

1134s. General assistance grants.
(a) Eligible institutions of higher education.
(b) Amount of grants.
(c) Applications for grants; time and manner of submission; approval conditions; waiver.
(d) Payments; reductions.
(e) Prohibition against grants for supporting divinity institution or for religious worship or sectarian instruction.
(f) Report to Congress.

SUBCHAPTER X.—COMMUNITY COLLEGES AND OCCUPATIONAL EDUCATION [NEW]

PART A.—ESTABLISHMENT AND EXPANSION OF COMMUNITY COLLEGES

Subpart 1.—Statewide Plans

1135. Statewide plans; advisory councils on community colleges; authorization of appropriations.

Subpart 2.—Establishment and Expansion of Community Colleges

1135a. Program authorization; authorization of appropriations.

Sec.
1135a–1. Apportionments; State defined.
1135a–2. Establishment grants; new community college defined.
1135a–3. Expansion grants.
1135a–4. Lease of facilities; Federal share; limitations.
1135a–5. Applications; Federal share; limitations.
1135a–6. Payments.
1135a–7. Definitions.

PART B.—OCCUPATIONAL EDUCATION PROGRAMS

1135b. Authorization of appropriations.
1135b–1. Allotments and reallotments among States.
1135b–2. Federal administration.
1135b–3. General responsibilities of Commissioner of Education.
1135b–4. State administration.
1135b–5. Planning grants for State occupational education programs.
1135b–6. Program grants for State occupational education programs.
1135b–7 Assurances; judicial review; reports.
1135b–8. Technical assistance; model programs.
1135b–9. Definitions.

PART C.—ESTABLISHMENT OF AGENCIES

1135c. Bureau of Occupational and Adult Education; establishment.
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SUBCHAPTER XI.—LAW SCHOOL CLINICAL EXPERIENCE PROGRAMS

SUBCHAPTER XII.—GENERAL PROVISIONS

1142a. State postsecondary education commission [New].
(a) Representation of interest groups.
(b) Committees or task forces of State Commissions; utilization of agencies for studies, surveys, recommendations, and expertise.
(c) State Commissions for administration of subchapter I, VI, and VII State plans.
(d) Other State Commissions for administration of subchapter VI and VII State plans.
1142b. Comprehensive statewide planning [New].
(a) Grants for studies and planning for postsecondary educational opportunities.
(b) Technical assistance.
(c) Authorization of appropriations.
1144a. Policy statement concerning students on boards of trustees [New].
1145a. Cost of education data [New].

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in section 1232a of this title; title 42 section 2752.

SUBCHAPTER I.—COMMUNITY SERVICE PROGRAM GRANTS

§ 1001. Authorization of appropriations.

For the purpose of assisting the people of the United States in the solution of community problems such as housing, poverty, government, recreation, employment, youth opportunities, transportation, health, and land use by enabling the Commissioner to make grants under this subchapter to strengthen community service programs of colleges and universities, there are authorized to be appropriated $10,000,000 for the fiscal year ending June 30, 1972, $30,000,000 for the fiscal year ending June 30, 1973, $40,000,000 for the fiscal year ending June 30, 1974, and $50,000,000 for the fiscal year ending June 30, 1975. (As amended Pub. L. 92–318, title I, § 101(a), June 23, 1972, 86 Stat. 236.)

AMENDMENTS

1972—Pub. L. 92–318 authorized appropriations of ten million, thirty million, forty million, and fifty million dollars for fiscal years ending June 30, 1972, 1973, 1974, and 1975, and deleted executed references to appropriations authorization of twenty-five million, fifty million, fifty million, ten million, fifty million, and sixty million dollars for fiscal year ending June 30, 1966 through June 30, 1971, respectively.

EFFECTIVE DATE OF 1972 AMENDMENT

Section 101(b) of Pub. L. 92–318 provided that: "The amendment made by subsection (a) [to this section] shall be effective after June 30, 1971."

SHORT TITLE

Section 1 of Pub. L. 92–318 provided: "That this Act [which enacted chapter 36 (section 1601 et seq.), chapter 37 (section 1651 et seq.), and chapter 38 (section 1681 et seq.), and sections 241aa to 241ff, 887c, 887d, 900 to 900a—5, 1005a, 1021, 1031, 1042, 1070 to 1070e—1, 1087—1, 1087—2, 1087aa to 1087ff, 1088d to 1088g, 1119a, 1132a to 1132e—1, 1134 to 1134s, 1135 to 1135c—1, 1142a, 1142b, 1144a, 1145a, 1211a, 1221a to 1221h, 1227 of this title, and sections 326a of Title 7, and 2756a of Title 42; amended sections 240, 241c, 241e, 331a, 332, 421, 441, 511, 513, 822, 823, 842, 843, 863, 880b—3a, 1001, 1003, 1011, 1021 (repealed), 1022 to 1024, 1027, 1031 (repealed), 1033, 1041, 1051 to 1056, 1061, 1068, 1070, 1074, 1075, 1077, 1078, 1078a, 1080, 1083, 1084, 1087, 1087a, 1087c, 1088, 1088c, 1091, 1091a, 1091b, 1091c, 1101, 1102, 1108 to 1111, 1115, 1116, 1118 (repealed), 1119, 1119a (repealed), 1119b—2 (repealed), 1121, 1129, 1133, 1133a, 1134j (former), 1136, 1136a, 1136b, 1141, 1176, 1231, 1231a, 1232a, 1232c, 1242, 1244, 1248, 1302, 1321 to 1323, 1341, 1352, 1371, 1391, and 1412 of this title, and sections 329, 331, 343, 349, 361, and 1626 of Title 7, sections 24(7), 84(14), 1464(c), and 1757(8)(E) of Title 12, sections 203(r)(1), (s)(4) and 213(a) of Title 29, and sections 2751, 2752, and 2754 of Title 42; repealed sections 1, 2, 426, 711 to 721, 731, 732, 746, 1021, 1031, 1032, 1060, 1118, 1119a, 1119b—2, and 1119c—4 of this title; and enacted provisions set out as notes under sections 241a, 241e, 241aa, 331a, 425, 821, 887d, 1001, 1005a, 1009, 1070, 1070e, 1074, 1075, 1087—2, 1087aa, 1091a 1132a, 1132c—3, 1135c, 1231, and 1232 of this title, and sections 301 and 326a of Title 7, and section 3501 of Title 41] may be cited as the 'Education Amendments of 1972'."

GENERAL PROVISIONS

Section 2 of Pub. L. 92–318 provided that:

"(a) As used in this Act [See Short Title note for Pub. L. 92–318 under this section]—

"(1) the term 'Secretary' means the Secretary of Health, Education, and Welfare; and

"(2) the term 'Commissioner' means the Commissioner of Education;

unless the context requires another meaning.

"(b) Unless otherwise specified, the redesignation of a section, subsection, or other designation by any amendment in this Act shall include the redesignation of any reference to such section, subsection, or other designation in any Act or regulation, however styled.

"(c)(1) Unless otherwise specified, each provision of this Act and each amendment made by this Act shall be effective after June 30, 1972, and with respect to appropriations for the fiscal year ending June 30, 1973, and succeeding fiscal years.

"(2) Unless otherwise specified, in any case where an amendment made by this Act is to become effective after a date set herein, it shall be effective with the beginning of the day which immediately follows the date after which such amendment is effective.

"(3) In any case where the effective date for an amendment made by this Act is expressly stated to be effective after June 30, 1971, such amendment shall be deemed to have been enacted on July 1, 1971."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1003, 1005a of this title.

§ 1003. Allotments to States.

(a) Amount

From the sums appropriated pursuant to section 1001 of this title for any fiscal year which are not reserved under section 1005a(a) of this title, the

Commissioner shall allot $25,000 each to Guam, American Samoa, the Commonwealth of Puerto Rico, and the Virgin Islands and $100,000 to each of the other States, and he shall allot to each State an amount which bears the same ratio to the remainder of such sums as the population of the State bears to the population of all States.

* * * * *

(As amended Pub. L. 92–318, title I, § 102(a)(2), June 23, 1972, 86 Stat. 237.)

AMENDMENTS

1972—Subsec. (a). Pub. L. 92–318 substituted "From the sums appropriated pursuant to section 1001 of this title for any fiscal year which are not reserved under section 1005a(a) of this title", for "Of the sums appropriated pursuant to section 1001 of this title for each fiscal year".

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1004, 1005 of this title.

§ 1005. State plans; submission to Commissioner through designated State agencies; required provisions; approval.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1142a of this title.

§ 1005a. Special programs and projects relating to national and regional problems; limitation.

(a) The Commissioner is authorized to reserve from the sums appropriated pursuant to section 1001 of this title for any fiscal year an amount not in excess of 10 per centum of the sums so appropriated for that fiscal year for grants pursuant to subsection (b) of this section.

(b)(1) From the sums reserved under subsection (a) of this section, the Commissioner is authorized to make grants to, and contracts with, institutions of higher education (and combinations thereof) to assist them in carrying out special programs and projects, consistent with the purposes of this subchapter, which are designed to seek solutions to national and regional problems relating to technological and social changes and environmental pollution.

(2) No grant or contract under this section shall exceed 90 per centum of the cost of the program or project for which application is made. (Pub. L. 89–329, title I, § 106, as added Pub. L. 92–318, title I, § 102(a)(1), June 23, 1972, 86 Stat. 237.)

EFFECTIVE DATE

Section 102(b) of Pub. L. 92–318 provided that:

"The amendments made by the second sentence of paragraph (1) of subsection (a) [enacting this section] and by paragraph (2) of such subsection [amending section 1003(a) of this title] shall be effective after June 30, 1972, and then—

"(1) only with respect to appropriations for title I of the Higher Education Act of 1965 [this subchapter] for fiscal years beginning after June 30, 1972; and

"(2) only to the extent that the allotment to any State under section 103(a) of such title [section 1003(a) of this title] is not less for any fiscal year than the allotment to that State under such section 103(a) for the fiscal year ending June 30, 1972."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1003 of this title.

§§ 1006 to 1008.

Pub. L. 92–318, title I, § 102(a)(1), June 23, 1972, 86 Stat. 236, redesignated sections 106 to 108 of Pub. L. 89–329 as sections 107 to 109.

§ 1008a. Special programs and projects relating to problems of the elderly.

(a) Grants to institutions of higher education.

The Commissioner is authorized to make grants to institutions of higher education (and combinations thereof) to assist such institutions in planning, developing, and carrying out, consistent with the purpose of this subchapter, programs specifically designed to apply the resources of higher education to the problems of the elderly, particularly with regard to transportation and housing problems of elderly persons living in rural and isolated areas.

(b) Authorization of appropriations.

For purposes of making grants under this section, there are authorized to be appropriated such sums as may be necessary for the fiscal year ending June 30, 1973, for each succeeding fiscal year ending prior to October 1, 1978, and for the period beginning July 1, 1976, and ending September 30, 1976.

(c) Administrative coordination with programs for older Americans.

In carrying out the program authorized by this section, the Commissioner shall consult with the Commissioner of the Administration on Aging for the purpose of coordinating, where practicable, the programs assisted under this section with the programs assisted under the Older Americans Act of 1965. (Pub. L. 89–329, title I, § 110, as added Pub. L. 93–29, title VIII, § 803, May 3, 1973, 87 Stat. 59, and amended Pub. L. 94–135, title II, § 201, Nov. 28, 1975, 89 Stat. 726.)

REFERENCES IN TEXT

Older Americans Act of 1965, referred to in subsec. (c), is classified to chapter 35 of Title 42, The Public Health and Welfare.

AMENDMENTS

1975—Subsec. (b). Pub. L. 94–135 substituted "for each succeeding fiscal year ending prior to October 1, 1978, and for the period beginning July 1, 1976, and ending September 30, 1976" for "and each suceeding fisceal year ending prior to July 1, 1977".

§ 1009. National Advisory Council on Extension and Continuing Education.

* * * * *

(f) Utilization of services and facilities of Federal agencies; termination of National Council.

In carrying out its functions pursuant to this section, the Advisory Council may utilize the services and facilities of any agency of the Federal Government, in accordance with agreements between the Secretary and the head of such agency. Subject to section 1233g(b) of this title, the Advisory Council shall continue to exist through June 30, 1975. (Pub. L. 89–329, title I, § 111, formerly 109, Nov. 8, 1965, 79 Stat. 1223, amended Pub. L. 91–230, title IV, § 401(h)(4), Apr. 13, 1970, 84 Stat. 174; renumbered 110, Pub. L. 92–318, title I, § 102(a)(1), June 23, 1972, 86 Stat. 236; renumbered 111, Pub. L. 93–29, title VIII, § 803, May 3, 1973, 87 Stat. 59, and amended Pub. L. 93–380, title VIII, § 831, Aug. 21, 1974, 88 Stat. 603.)

AMENDMENTS

1974—Subsec. (f). Pub. L. 93–380 continued existence of the National Council through June 30, 1975.

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment by Pub. L. 93–380 effective on and after sixtieth day after Aug. 21, 1974, see section 2(c) of Pub. L. 93–380, set out as a note under section 241b of this title.

EVALUATION OF ACTIVITIES; NATIONAL ADVISORY COUNCIL AUTHORITY; REPORT TO CONGRESS

Section 103 of Pub. L. 92–318 provided that:

"(a) During the period beginning with the date of enactment of this Act [June 23, 1972] and ending July 1, 1974, the National Advisory Council on Extension and Continuing Education, hereafter in this section referred to as the National Advisory Council, shall conduct a review of the programs and projects carried out with assistance under title I of the Higher Education Act of 1965 [this subchapter] prior to July 1, 1973. Such review shall include an evaluation of specific programs and projects with a view toward ascertaining which of them show, or have shown, (1) the greatest promise in achieving the purposes of such title [this subchapter], and (2) the greatest return for the resources devoted to them. Such review shall be carried out by direct evaluations by the National Advisory Council, by the use of other agencies, institutions, and groups, and by the use of independent appraisal units.

"(b) Not later than March 31, 1973, and March 31, 1975, the National Advisory Council shall submit to the Committee on Labor and Public Welfare of the Senate and the Committee on Education and Labor of the House of Representatives a report on the review conducted pursuant to subsection (a). Such report shall include (1) an evaluation of the program authorized by title I of the Higher Education Act of 1965 [this subchapter] and of specific programs and projects assisted through payments under such title [this subchapter], (2) a description and an analysis of programs and projects which are determined to be most successful, and (3) recommendations with respect to the means by which the most successful programs and projects can be expanded and replicated.

"(c) Sums appropriated pursuant to section 401(c) of the General Education Provisions Act [section 1221(c) of this title] for the purposes of section 402 of such Act [section 1222 of this title] shall be available to carry out the purposes of this section."

§ 1010. Authorities under other laws not modified.

Pub. L. 92–318, title I, § 102(a)(1), June 23, 1972, 86 Stat. 236, redesignated section 110 of Pub. L. 89–329 as section 111, and Pub. L. 93–29, title VIII, § 803, May 3, 1973, 87 Stat. 59, redesignated section 111 as 112.

§ 1011. Prohibition against grants for programs relating to sectarian instruction or religious worship.

No grant may be made under this subchapter for any educational program, activity, or service related to sectarian instruction or religious worship, or provided by a school or department of divinity. (Pub. L. 89–329, title I, § 113, formerly § 111, Nov. 8, 1965, 79 Stat. 1224; renumbered § 112, and amended Pub. L. 92–318, title I, §§ 102(a)(1), 131(d)(2)(A), June 23, 1972, 86 Stat. 236, 260; renumbered § 113, Pub. L. 93–29, title VIII, § 803, May 3, 1973, 87 Stat. 59.)

CODIFICATION

Amendment by Pub. L. 92–318 was executed to section 112 of Pub L. 89–329 as the provision manifestly intended by Congress and not to a nonexistent section 113.

AMENDMENTS

1972—Pub. L. 92–318, § 131(d)(2)(A), struck out definition of "school or department of divinity", now covered by section 1141(*l*) of this title.

SUBCHAPTER II.—LIBRARY ASSISTANCE

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in section 1055 of this title.

§ 1021. College library programs

(a) Financial assistance.

The Commissioner shall carry out a program of financial assistance—

(1) to assist and encourage institutions of higher education in the acquisition of library resources, including law library resources, in accordance with part A; and

(2) to assist with and encourage research and training persons in librarianship, including law librarianship, in accordance with part B.

(b) Authorization of appropriations.

For the purpose of making grants under parts A and B, there are authorized to be appropriated $75,000,000 for the fiscal year ending June 30, 1973, $85,000,000 for the fiscal year ending June 30, 1974, and $100,000,000 for the fiscal year ending June 30, 1975. Of the sums appropriated pursuant to the preceding sentence for any fiscal year, 70 per centum shall be used for the purposes of part A and 30 per centum shall be used for the purposes of part B, except that the amount available for the purposes of part B for any fiscal year shall not be less than the amount appropriated for such purposes for the fiscal year ending June 30, 1972.

(c) Definitions.

For the purposes of this subchapter—

(1) the term "library resources" means books, periodicals, documents, magnetic tapes, phonograph records, audiovisual materials, and other related library materials, including necessary binding; and

(2) the term "librarianship" means the principles and practices of the library and information sciences, including the acquisition, organization, storage, retrieval and dissemination of information, and reference and research use of library and information resources.

(Pub. L. 89–329, title II, § 201, as added Pub. L. 92–318, title I, § 111(b)(1), June 23, 1972, 86 Stat. 238.)

CODIFICATION

Another section 1021, Pub. L. 89–329, title II, § 201, Nov. 8, 1965, 79 Stat. 1224; Pub. L. 90–575, title II, § 211, Oct. 16, 1968, 82 Stat. 1036; Pub. L. 92–318, title I, § 111(a)(1), June 23, 1972, 86 Stat. 238, which authorized appropriations of $50,000,000 for each fiscal year ending June 30, 1966, 1967, and 1968, and $25,000,000; $75,000,000; $90,000,000; and $18,000,000 for fiscal years ending June 30, 1969, 1970, 1971, and 1972, for library resources grants, was repealed by Pub. L. 92–318, § 111(b)(1), which enacted this section.

EFFECTIVE DATE

Section 111(b)[c] of Pub. L. 92–318 provided that: "The amendments made by subsection (a) and subsec. (b) of this section [enacting this section and section 1031 of this title, amending sections 1022, 1023(a), and 1024(a)(1)–(3), and 1033 (a), (b), and repealing section 1032 of this title] shall be effective after June 30, 1972, and only with respect to appropriations for the fiscal year ending June 30, 1973, and succeeding fiscal years."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1031 of this title.

PART A.—COLLEGE LIBRARY RESOURCES

PART REFERRED TO IN OTHER SECTIONS

This part is referred to in section 1021 of this title.

§ 1022. Basic grants; authorization; maximum amount; applications.

From the amount available for grants under this part pursuant to section 1021 of this title for any fiscal year, the Commissioner shall make basic grants for the purposes set forth in section 1021(a)

(1) of this title to institutions of higher education, to combinations of such institutions, to new institutions of higher education in the fiscal year preceding the fiscal year in which students are to be enrolled (in accordance with criteria prescribed by regulation), and other public and private nonprofit library institutions whose primary function is to provide library and information services to institutions of higher education on a formal, cooperative basis. The amount of a basic grant shall, for any fiscal year, be equal to the amount expended by the applicant for library resources during that year from funds other than funds received under this part, except that no basic grant shall exceed $5,000 for each such institution of higher education and each branch of such institution which is located in a community different from that in which its parent institution is located, as determined in accordance with regulations of the Commissioner, and a basic grant under this subsection[1] may be made only if the application therefor is approved by the Commissioner upon his determination that the application (whether by an individual institution or a combination of institutions)—

(1) provides satisfactory assurance that the applicant will expend during the fiscal year for which the basic grant is sought, from funds other than funds received under this part—

(A) for all library purposes (exclusive of construction), an amount not less than the average annual amount it expended for such purposes during the two fiscal years preceding the fiscal year for which assistance is sought under this part, and

(B) for library resources, an amount not less than the average amount it expended for such resources during the two fiscal years preceding the fiscal year for which assistance is sought under this part,

except that, if the Commissioner determines, in accordance with regulations, that there are special and unusual circumstances which prevent the applicant from making the assurances required by this clause (1), he may waive that requirement for one or both of such assurances;

(2) provides for such fiscal control and fund accounting procedures as may be necessary to assure proper disbursement of and accounting for Federal funds paid to the applicant under this section; and

(3) provides for making such reports, in such form and containing such information, as the Commissioner may require to carry out his functions under this section, and for keeping such records and for affording such access thereto as the Commissioner may find necessary to assure the correctness and verification of such reports.

(As amended Pub. L. 92–318, title I, §§ 111(b)(2)(A), 112(a), (b)(1), June 23, 1972, 86 Stat. 238, 240.)

AMENDMENTS

1972—Pub. L. 92–318, in first sentence, substituted introductory text "From the amount available for grants under this part" for "From 75 per centum of the sums appropriated", "shall make basic grants" for "is authorized to make basic grants", "purposes set forth in section 1021(a)(1)" for "purposes set forth in that section", extended application of criteria prescribed by regulations to the enumerated institutions rather than only to new institutions of higher education, and provided for grants to other public and private nonprofit library institutions whose primary function is to provide library and information services to institutions of higher education on a formal, cooperative basis; incorporated in provisions designated as cl. (1)(A) and (B) provisions of former cls. (a) and (b), substituted in item (B) the term "library resources" for "books, periodicals, documents, magnetic tapes, phonograph records, audiovisual materials, and other related materials (including necessary binding) for library purposes", added the exception provision, and redesignated former cls. (c) and (d) as (2) and (3), respectively; and substituted in introductory text of second sentence ", for any fiscal year, be equal to the amount expended by the applicant for library resources during that year from funds other than funds received under this part, except that no basic grant shall exceed" for "not exceed", respectively.

EFFECTIVE DATE OF 1972 AMENDMENT

Amendment by section 111(b)(2)(A) of Pub. L. 92–318, effective after June 30, 1972, and only with respect to appropriations for fiscal year ending June 30, 1973, and succeeding fiscal years, see section 111(b)[c] of Pub. L. 92–318, set out as a note under section 1021 of this title.

Section 112(c) of Pub. L. 92–318 provided that: "The amendments made by this section [to second sentence of this section and section 1023(a)(1) of this title] shall be effective after, and only with respect to appropriations for fiscal years beginning after, June 30, 1971."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1023 of this title.

§ 1023. Supplemental grants; authorization; maximum amount; applications; basic criteria for approval.

(a) From that part of the sums appropriated pursuant to section 1021 of this title for the purposes of this part for any fiscal year which remains after making basic grants pursuant to section 1022 of this title, and which is not reserved for the purposes of section 1024 of this title, the Commissioner shall make supplemental grants for the purposes set forth in section 1021(a)(1) of this title to institutions of higher education (and to each branch of such institution which is located in a community different from that in which its parent institution is located, as determined in accordance with regulations of the Commissioner) and combinations of such institutions. The amount of a supplemental grant shall not exceed $20 for each full-time student (including the full-time equivalent of the number of part-time students) enrolled in each such institution (or branch), as determined pursuant to regulations of the Commissioner. A supplemental grant may be made only upon application therefor, in such form and containing such information as the Commissioner may require, which application shall—

(1) meet the application requirements set forth in section 1022 of this title;

* * * * *

(As amended Pub. L. 92–318, title I, §§ 111(b)(2)(B), 112(b)(2), 113(a), June 23, 1972, 86 Stat. 239, 240.)

AMENDMENTS

1972—Subsec. (a). Pub. L. 92–318, §§ 111(b)(2)(B), 113(a), substituted "From that part of the sums appropriated pursuant to section 1021 of this title for the purposes of this part for any fiscal year which remains after making basic grants pursuant to section 1022 of this title,

[1] So in original. Probably should read "this section".

and which is not reserved for the purposes of section 1024 of this title, the Commissioner shall make supplemental grants", for "From the remainder of such 75 per centum of the sums appropriated pursuant to section 1021 of this title for any fiscal year, plus any part of such sums as the Commissioner determines will not be used for making grants under section 1024 of this title, the Commissioner is authorized to make supplemental grants" and "set forth in section 1021(a)(1) of this title" for "set forth in section 1021 of this title" and increased limitation on amount of supplemental grant from $10 to $20, respectively.

Subsec. (a)(1). Pub. L. 92-318, § 112(b)(2), struck out "except for the matching requirement set forth in paragraph (a)(2) of that section" following "section 1022 of this title".

EFFECTIVE DATE OF 1972 AMENDMENT

Amendment of subsec. (a) of this section by section 111(b)(2)(B) of Pub. L. 92-318 effective after June 30, 1972, and only with respect to appropriations for fiscal year ending June 30, 1973, and succeeding fiscal years, see section 111(b)[c] of Pub. L. 92-318, set out as a note under section 1021 of this title.

Amendment of subsec. (a)(1) of this section by section 112(b)(2) of Pub. L. 92-318 effective after, and only with respect to appropriations for fiscal years beginning after, June 30, 1971, see section 112(c) of Pub. L. 92-318, set out as a note under section 1022 of this title.

Section 113(b) of Pub. L. 92-318 provided that: "The amendment made by subsection (a) [increasing limitation on amount of supplemental grant in subsec. (a) of this section] shall be effective after, and only with respect to appropriations for fiscal years beginning after, June 30, 1972."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1025 of this title.

§ 1024. Special purpose grants; amount; institutions eligible; uses, applications.

(a)(1) From the sums appropriated pursuant to section 1021 of this title for the purposes of this part for any fiscal year, the Commissioner is authorized to reserve not to exceed 25 per centum thereof for the purposes of this section.

(2) Sums reserved pursuant to paragraph (1) may be used to make special grants (A) to institutions of higher education (or to branches of such institutions which are located in a community different from that in which the parent institution is located, as determined in accordance with regulations of the Commissioner) which demonstrate a special need for additional library resources and which demonstrate that such additional library resources will make a substantial contribution to the quality of their educational resources, (B) to institutions of higher education (or to such branches) to meet special national or regional needs in the library and information sciences, (C) to combinations of institutions of higher education which need special assistance in establishing and strengthening joint-use facilities, and (D) to other public and private nonprofit library institutions which provide library and information services to institutions of higher education on a formal, cooperative basis. Grants under this section may be used only for books, periodicals, documents, magnetic tapes, phonograph records, audiovisual materials, and other related library materials (including necessary binding).

(3) Repealed. Pub. L. 92-318, title I, § 111(b)(2)(C)(iv), June 23, 1972, 86 Stat. 239.

* * * * *

(As amended Pub. L. 92-318, title I, § 111(b)(2)(C), June 23, 1972, 86 Stat. 239.)

AMENDMENTS

1972—Subsec. (a)(1). Pub. L. 92-318, § 111(b)(2)(C)(i), substituted provision authorizing the Commissioner to reserve not to exceed 25 per centum of the appropriation for purposes of this section, for former provision for such use by the Commissioner of twenty-five per centum of the appropriation in accordance with this subsection.

Subsec. (a)(2). Pub. L. 92-318, § 111(b)(2)(C)(ii) and (iii), substituted "Sums reserved pursuant to paragraph (1)" for "Of the sums available for use under paragraph (1) sixty per centum" and added item (D), respectively.

Subsec. (a)(3). Pub. L. 92-318, § 111(b)(2)(C)(iv), struck out par. (3) provision for use in the manner prescribed by former first sentence of section 1023(a) of this title of any sums available for use under former par. (1) of this subsection which are not used for the purposes of former par. (2) of this section.

EFFECTIVE DATE OF 1972 AMENDMENT

Amendment of subsec. (a)(1)-(3) of this section by section 111(b)(2)(C) of Pub. L. 92-318 effective after June 30, 1972, only with respect to appropriations for fiscal year ending June 30, 1973, and succeeding fiscal years, see section 111(b)[c] of Pub. L. 92-318, set out as a note under section 1021 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1023, 1025 of this title.

§ 1025. Advisory Council on College Library Resources.

TERMINATION OF ADVISORY COUNCILS

Advisory Councils in existence on January 5, 1973, to terminate not later than the expiration of the two-year period following January 5, 1973, unless, in the case of a Council established by the President or an officer of the Federal Government, such Council is renewed by appropriate action prior to the expiration of such two-year period, or in the case of a Council established by the Congress, its duration is otherwise provided for by see sections 3(2) and 14 of Pub. L. 92-463, Oct. 6, 1972, 86 Stat. 770, 776, set out in the Appendix to Title 5, Government Organization and Employees.

§ 1027. Prohibition against grants for library resources to be used for sectarian instruction or religious worship.

No grant may be made under this part for books, periodicals, documents, or other related materials to be used for sectarian instruction or religious worship, or primarily in connection with any part of the program of a school or department of divinity. (As amended Pub. L. 92-318, title I, § 131(d)(2)(B), June 23, 1972, 86 Stat. 260.)

AMENDMENTS

1972—Pub. L. 92-318 struck out definition of "school or department of divinity", now covered by section 1141(*l*) of this title.

PART B.—LIBRARY TRAINING AND RESEARCH GRANTS

PART REFERRED TO IN OTHER SECTIONS

This part is referred to in section 1021 of this title.

§ 1031. Training and research programs.

From the amount available for grants under this part pursuant to section 1021 of this title for any fiscal year, the Commissioner shall carry out a program of making grants in accordance with sections 1033 and 1034 of this title. Of such amount, 66⅔ per centum shall be available for the purposes of section 1033 and 33⅓ per centum shall be available for the

purposes of section 1034 of this title. (Pub. L. 89–329, title II, § 221, as added Pub. L. 92–318, title I, § 111(b)(3)(A), June 23, 1972, 86 Stat. 239.)

CODIFICATION

Another section 1031, Pub. L. 89–329, title II, § 221, Nov. 8, 1965, 79 Stat. 1227; Pub. L. 90–575, title II, § 215, Oct. 16, 1968, 82 Stat. 1038; Pub. L. 92–318, title I, § 111(a)(2), June 23, 1972, 86 Stat. 238, which authorized appropriations of $15,000,000 for each fiscal year ending June 30, 1966, 1967, and 1968, and $11,800,000; $28,000,000; $38,000,000; and $12,000,000 for fiscal years ending June 30, 1969, 1970, 1971, and 1972, was repealed by Pub. L. 92–318, § 111(b)(3)(A), which enacted this section.

EFFECTIVE DATE

Section effective after June 30, 1972, and only with respect to appropriations for fiscal year ending June 30, 1973, and succeeding fiscal years, see section 111(b)[c] of Pub. L. 92–318, set out as a note under section 1021 of this title.

§ 1032. Repealed. Pub. L. 92–318, title I, § 111(b)(3)(A), June 23, 1972, 86 Stat. 239.

Section, Pub. L. 89–329, title II, § 222, Nov. 8, 1965, 79 Stat. 1227, defined the term "librarianship" and is now covered by section 1021(c)(2) of this title.

EFFECTIVE DATE OF REPEAL

Section repealed effective after June 30, 1972, and only with respect to appropriations for fiscal year ending June 30, 1973, and succeeding fiscal years, see section 111(b)[c] of Pub. L. 92–318, set out as a note under section 1021 of this title.

§ 1033. Grants for training in librarianship; authorization; uses; applications.

(a) The Commissioner is authorized to make grants to institutions of higher education and library organizations or agencies to assist them in training persons in librarianship. Such grants may be used by such institutions, library organizations or agencies (1) to assist in covering the cost of courses of training or study (including short term or regular session institutes) for such persons, (2) for establishing and maintaining fellowships or traineeships with stipends (including allowances for traveling, subsistence, and other expenses) for fellows and others undergoing training and their dependents, not in excess of such maximum amounts as may be prescribed by the Commissioner, and (3) for establishing, developing, or expanding programs of library and information science. Not less than 50 per centum of the grants made under this subsection shall be for the purpose of establishing and maintaining fellowships or traineeships under clause (2).

(b) The Commissioner may make a grant to an institution of higher education and library organizations or agencies only upon application by the institution and only upon his finding that such program will substantially further the objective of increasing the opportunities throughout the Nation for training in librarianship. (Pub. L. 89–329, title II, § 222, formerly § 223, Nov. 8, 1965, 79 Stat. 1227, amended Pub. L. 90–575, title II, § 216, Oct. 16, 1968, 82 Stat. 1037; renumbered and amended Pub. L. 92–318, title I, § 111(b)(3)(B–(D), June 23, 1972, 86 Stat. 239, 240.)

AMENDMENTS

1972—Subsec. (a). Pub. L. 92–318, § 111(b)(3)(B), authorized grants to and for use by library organizations or agencies and provided that not less than 50 per centum of the grants shall be for the purpose of establishing and maintaining fellowships or traineeships under clause (2).

Subsec. (b). Pub. L. 92–318, § 111(b)(3)(C), inserted "and library organizations or agencies" following "institution of higher education".

EFFECTIVE DATE OF 1972 AMENDMENT

Amendment by Pub. L. 92–318 effective after June 30, 1972, and only with respect to appropriations for fiscal year ending June 30, 1973, and succeeding fiscal years, see section 111(b)[c] of Pub. L. 92–318, set out as a note under section 1021 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1031 of this title.

§ 1034. Grants for research and demonstration projects; authorization; contracts for conduct of activities; prohibition against grants to other than non-profit agencies or institutions; special advisory committee; appointment; membership; functions.

Pub. L. 92–318, title I, § 111(b)(3)(D), June 23, 1972, 86 Stat. 240, redesignated section 224 of Pub. L. 89–329 as section 223.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1031 of this title.

PART C.—ASSISTANCE TO LIBRARY OF CONGRESS FOR ACQUISITION AND CATALOGING OF LIBRARY MATERIAL

§ 1041. Authorization of appropriations.

There are hereby authorized to be appropriated $5,000,000 for the fiscal year ending June 30, 1966, $6,315,000 for the fiscal year ending June 30, 1967, $7,770,000 for the fiscal year ending June 30, 1968, $6,000,000 for the fiscal year ending June 30, 1969, and $11,100,000 each for the fiscal year ending June 30, 1970, and $9,000,000 for the fiscal year ending June 30, 1972, $12,000,000 for the fiscal year ending June 30, 1973, $15,000,000 for the fiscal year ending June 30, 1974, and $9,000,000 for the fiscal year ending June 30, 1975, to enable the Commissioner to transfer funds to the Librarian of Congress for the purpose of—

* * * * * *

(As amended Pub. L. 92–318, title I, § 114(a), June 23, 1972, 86 Stat. 240.)

AMENDMENTS

1972—Pub. L. 92–318 authorized appropriations of nine million, twelve million, fifteen million, and nine million dollars for fiscal years ending June 30, 1972, 1973, 1974, and 1975, respectively, and deleted executed reference to appropriations authorization of $11,100,000 for fiscal year ending June 30, 1971.

EFFECTIVE DATE OF 1972 AMENDMENT

Section 114(b) of Pub. L. 92–318 provided that: "The amendments made by subsection (a) [to this section] shall be effective after June 30, 1971."

§ 1042. Evaluation and report to Congressional committees.

No later than March 31 of each calendar year the Librarian of the Congress shall transmit to the respective committees of the Congress having legislative jurisdiction over this part and to the respective Committees on Appropriations of the Congress a report evaluating the results and effectiveness of acquisition and cataloging work done under this part, based to the maximum extent prac-

ticable on objective measurements, including costs, together with recommendations as to proposed legislative action. (Pub. L. 89–329, title II, § 232, as added Pub. L. 92–318, title I, § 115(a), June 23, 1972, 86 Stat. 241.)

EFFECTIVE DATE

Section 115(b) of Pub. L. 92–318 provided that: "The amendment made by subsection (a) [enacting this section] shall be effective after June 30, 1972."

SUBCHAPTER III.—STRENGTHENING DEVELOPING INSTITUTIONS

§ 1051. Special assistance.

(a) Duty of Commissioner.

The Commissioner shall carry out a program of special assistance to strengthen the academic quality of developing institutions which have the desire and potential to make a substantial contribution to the higher education resources of the Nation but which are struggling for survival and are isolated from the main currents of academic life.

(b) Authorization of appropriations.

(1) For the purpose of carrying out this subchapter, there are authorized to be appropriated $120,000,000 for the fiscal year ending June 30, 1973, and for each of the succeeding fiscal years ending prior to July 1, 1975.

(2) Of the sums appropriated pursuant to this subsection for any fiscal year, 76 per centum shall be available only for carrying out the provisions of this subchapter with respect to developing institutions which plan to award one or more bachelor's degrees during such year.

(3) The remainder of the sums so appropriated shall be available only for carrying out the provisions of this subchapter with respect to developing institutions which do not plan to award such a degree during such year. (As amended Pub. L. 92–318, title I, § 121(a), June 23, 1972, 86 Stat. 241.)

AMENDMENTS

1972—Subsec. (a). Pub. L. 92–318 eliminated from the statement of purpose provision for establishment of national teaching fellow program and encouragement and assistance in establishment of cooperative arrangements for colleges to draw on talent and experience of our finest colleges and universities and on educational resources of business and industry to improve their academic quality, now covered by section 1054 of this title.

Subsec. (b). Pub. L. 92–318 substituted in par. (1) an appropriations authorization of $120,000,000 for fiscal year ending June 30, 1973, and for each of the succeeding fiscal years ending prior to July 1, 1975, for appropriations authorization of $55,000,000; $30,000,000; $55,000,000; $35,000,000; $70,000,000; and $91,000,000 for fiscal years ending June 30, 1966 through 1971, respectively, and substituted in par. (2) "76" for "77" per centum.

EFFECTIVE DATE OF 1972 AMENDMENT

Section 121(b) of Pub. L. 92–318 provided that: "The amendment made by subsection (a) [to sections 1051 to 1056 of this title] shall be effective after, and only with respect to appropriations made for fiscal years beginning after June 30, 1972."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1054, 1056 of this title.

§ 1052. Eligibility for special assistance.

(a) Developing institution defined; waiver of requirements.

(1) For the purposes of this subchapter, the term "developing institution" means an institution of higher education in any State which—

(A) is legally authorized to provide, and provides within the State, an educational program for which it awards a bachelor's degree, or is a junior or community college;

(B) is accredited by a national recognized accrediting agency or association determined by the Commissioner to be reliable authority as to the quality of training offered or is, according to such an agency or association, making reasonable progress toward accreditation;

(C) except as is provided in paragraph (2), has met the requirement of clauses (A) and (B) during the five academic years preceding the academic year for which it seeks assistance under this subchapter; and

(D) meets such other requirements as the Commissioner shall prescribe by regulation, which requirements shall include at least a determination that the institution—

(i) is making a reasonable effort to improve the quality of its teaching and administrative staffs and of its student services; and

(ii) is, for financial or other reasons, struggling for survival and isolated from the main currents of academic life.

(2) The Commissioner is authorized to waive the requirements set forth in clause (C) of paragraph (1) in the case of applications for grants under this subchapter by institutions located on or near an Indian reservation or a substantial population of Indians if the Commissioner determines such action will increase higher education for Indians, except that such grants may not involve an expenditure of funds in excess of 1.4 per centum of the sums appropriated pursuant to this subchapter for any fiscal year. The Commissioner is authorized to waive three years of the requirements set forth in clause (C) of paragraph (1) in the case of applications for grants under this subchapter by institutions if the Commissioner determines such action will substantially increase higher education for Spanish-speaking people.

(b) Application for special assistance; time of submission; form; contents; approval by Commissioner.

Any institution desiring special assistance under the provisions of this subchapter shall submit an application for eligibility to the Commissioner at such time, in such form, and containing such information, as may be necessary to enable the Commissioner to evaluate the need of the applicant for such assistance and to determine its eligibility to be a developing institution for the purposes of this subchapter. The Commissioner shall approve any application for eligibility under this subsection which indicates that the applicant is a developing institution meeting the requirements set forth in subsection (a) of this section.

(c) Junior or community college defined.

For the purposes of clause (A) of paragraph (1) of subsection (a) of this section, the term "junior or community college" means an institution of higher education—

(1) which does not provide an educational program for which it awards a bachelor's degree (or and equivalent degree);

(2) which admits as regular students only persons having a certificate of graduation from a school providing secondary education (or the recognized equivalent of such a certificate); and

(3) which does—

(A) provide an educational program of not less than two years which is acceptable for full credit toward such a degree, or

(B) offer a two-year program in engineering, mathematics, or the physical or biological sciences, which program is designed to prepare a student to work as a technician and at the semi-professional level in engineering, scientific, or other technological fields, which fields require the understanding and application of basic engineering, scientific, or mathematical principles of knowledge.

(As amended Pub. L. 92–318, title I, § 121(a), June 23, 1972, 86 Stat. 241; Pub. L. 93–380, title VIII, § 832, Aug. 21, 1974, 88 Stat. 603.)

AMENDMENTS

1974—Subsec. (a)(2). Pub. L. 93–380 added provision for waiver of three years of the requirement of subsec. (a)(1)(C) of this section if such waiver will substantially increase higher education for Spanish-speaking people.

1972—Pub. L. 92–318, in revising the text, substituted subsecs. (a) to (c) for former cls. (a) to (h), making the changes as described below.

Subsec. (a). Pub. L. 92–318 substituted in par. (1) definition of developing institution as an institution of higher education for former introductory text as a public or nonprofit educational institution; incorporated in pars. (1)(A), (B), and (C), part of former cl. (b), and cls. (c) and (d), respectively, par. (1)(D), (1)(D)(i), and (ii) former cls. (g), (e), and (f), respectively, added par. (2), and struck out former cl. (h), excluding from the definition an institution with a program for education of students for becoming ministers of religion, or entering upon some religious vocation, or teaching theological subjects, now covered by section 1056 of this title.

Subsec. (b). Pub. L. 92–318 added subsec. (b).

Subsec. (c). Pub. L. 92–318 added cl. (1) and incorporated in cls. (2) and (3) provisions of former cls. (a) and (b).

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment by Pub. L. 93–380 effective on and after sixtieth day after Aug. 21, 1974, see section 2(c) of Pub. L. 93–380, set out as a note under section 241b of this title.

EFFECTIVE DATE OF 1972 AMENDMENT

Amendment by Pub. L. 92–318 effective after, and only with respect to appropriations made for fiscal years beginning after, June 30, 1972, see section 121(b) of Pub. L. 92–318, set out as a note under section 1051 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1055 of this title.

§ 1053. Advisory Council on Developing Institutions.

(a) Establishment; membership; appointment.

There is hereby established an Advisory Council on Developing Institutions (in this subchapter referred to as the "Council") consisting of nine members appointed by the Commissioner with the approval of the Secretary.

(b) Duties and functions of Council.

The Council shall, with respect to the program authorized by this subchapter, carry out the duties and functions specified by part D of the General Education Provisions Act and, in particular, it shall assist the Commissioner—

(1) in identifying developing institutions through which the purposes of this subchapter may be achieved; and

(2) in establishing the priorities and criteria to be used in making grants under section 1054(a) of this title.

(As amended Pub. L. 92–318, title I, § 121(a), title III, § 301(a)(1), June 23, 1972, 86 Stat. 242, 326.)

REFERENCES IN TEXT

Part D of the General Education Provisions Act, referred to in subsec. (b), is classified to section 1233 et seq. of this title.

AMENDMENTS

1972—Subsec. (a). Pub. L. 92–318 substituted provisions respecting appointment by the Commissioner with approval of the Secretary of a Council of nine members for former provision for such appointment of a Council consisting of the Commissioner as Chairman, one representative of Federal agenices having responsibilities with respect to developing institutions, and eight members appointed without regard to the civil service laws.

Subsec. (b). Pub. L. 92–318, § 121(a) provided that the Council shall carry out the duties and functions specified by part C of the General Education Provisions Act, incorporated existing provisions in provisions designated as cls. (1) and (2), inserted in cl. (2) reference to criteria, and deleted provision respecting appointment of special advisory and technical experts and consultants as may be useful in carrying out the functions of the Council.

Pub. L. 92–318, § 301(a), substituted "part D" for "part C".

EFFECTIVE DATE OF 1972 AMENDMENT

Amendment by Pub. L. 92–318 effective after, and only with respect to appropriations made for fiscal years beginning after, June 30, 1972, see section 121(b) of Pub. L. 92–318, set out as a note under section 1051 of this title.

TERMINATION OF ADVISORY COUNCILS

Advisory Councils in existence on January 5, 1973, to terminate not later than the expiration of the two-year period following January 5, 1973, unless, in the case of a Council established by the President or an officer of the Federal Government, such Council is renewed by appropriate action prior to the expiration of such two-year period, or in the case of a Council established by the Congress, its duration is otherwise provided for by law, see sections 3(2) and 14 of Pub. L. 92–463, Oct. 6, 1972, 86 Stat. 770, 776, set out in the Appendix to Title 5, Government Organization and Employees.

§ 1054. Grants and awards.

(a) Authority of Commissioner.

The Commissioner is authorized to make grants and awards, in accordance with the provisions of this subchapter, for the purpose of strengthening developing institutions. Such grants and awards shall be used solely for the purposes set forth in subsection (b) of this section.

(b) Uses of funds; cooperative arrangements; National Teaching Fellowships; Professors Emeritus Grants.

Funds appropriated pursuant to section 1051(b) of this title shall be available for—

(1) grants to institutions of higher education to pay part of the cost of planning, developing, and carrying out cooperative arrangements between developing institutions and other institu-

tions of higher education, and between developing institutions and other organizations, agencies, and business entities, which show promise as effective measures for strengthening the academic program and the administrative capacity of developing institutions, including such projects and activities as—

(A) exchange of faculty or students, including arrangements for bringing visiting scholars to developing institutions,

(B) faculty and administration improvement programs, utilizing training, education (including fellowships leading to advanced degrees), internships, research participation, and other means,

(C) introduction of new curricula and curricular materials,

(D) development and operation of cooperative education programs involving alternate periods of academic study and business or public employment, and

(E) joint use of facilities such as libraries or laboratories, including necessary books, materials, and equipment;

(2) National Teaching Fellowships to be awarded by the Commissioner to highly qualified graduate students and junior faculty members of institutions of higher education for teaching at developing institutions; and

(3) Professors Emeritus Grants to be awarded by the Commissioner to professors retired from active service at institutions of higher education to encourage them to teach or to conduct research at developing institutions.

(c) Application approval conditions; criteria for use of grants; stipend and dependent allowance; limitation.

(1) An application for assistance for the purposes described in subsection (b)(1) of this section shall be approved only if it—

(A) sets forth a program for carrying out one or more of the activities described in subsection (b)(1) of this section, and sets forth such policies and procedures for the administration of the program as will insure the proper and efficient operation of the program and the accomplishment of the purposes of this subchapter;

(B) sets forth such policies and procedures as will insure that Federal funds made available under this section for any fiscal year will be so used as to supplement and, to the extent practical, increase the level of funds that would, in the absence of such Federal funds be made available for the purposes of the activities described in subsection (b)(1) of this section, and in no case supplant such funds;

(C) sets forth policies and procedures for the evaluation of the effectiveness of the project or activity in accomplishing its purpose;

(D) provides for such fiscal control and fund accounting procedures as may be necessary to insure proper disbursement of and accounting for funds made available under this subchapter to the applicant; and

(E) provides for making such reports, in such form and containing such information, as the Commissioner may require to carry out his functions under this subchapter, and for keeping such records and affording such access thereto, as he may find necessary to assure the correctness and verification of such reports.

The Commissioner shall, after consultation with the Council, establish by regulation criteria as to eligible expenditures for which funds from grants for cooperative arrangements under clause (1) of subsection (b) of this section may be used, which criteria shall be so designed as to prevent the use of such funds for purposes not necessary to the achievement of the purposes for which the grant is made.

(2)(A) Applications for awards described in clauses (2) and (3) of subsection (b) of this section may be approved only upon a finding by the Commissioner that the program of teaching or research set forth therein is reasonable in the light of the qualifications of the applicant and of the educational needs of the institution at which the applicant intends to teach.

(B) No application for a National Teaching Fellowship or a Professors Emeritus Grant shall be approved for an award of such a fellowship or grant for a period exceeding two academic years, except that the award of a Professors Emeritus Grant may be for such period, in addition to such two-year period of award, as the Commissioner, upon the advice of the Council, may determine in accordance with policies of the Commissioner set forth in regulations.

(C) Each person awarded a National Teaching Fellowship or a Professors Emeritus Grant shall receive a stipend for each academic year of teaching (or, in the case of a recipient of a Professors Emeritus Grant, research) as determined by the Commissioner upon the advice of the Council, plus an additional allowance for each such year for each dependent of such person. In the case of National Teaching Fellowships, such allowance may not exceed $7,500, plus $400 for each dependent. (As amended Pub. L. 92–318, title I, § 121(a), June 23, 1972, 86 Stat. 243.)

AMENDMENTS

1972—Subsec. (a). Pub. L. 92–318 incorporated existing provisions in subsec. (a). Remainder provisions incorporated in subsec. (b)(1)(A)–(E).

Subsec. (b). Pub. L. 92–318 incorporated existing provisions of subsec. (a)(1)–(5) in par. (1)(A)–(E), struck out former subsec. (a)(6) for other arrangements which offer promise of strengthening academic programs and administration of developing institutions, and incorporated former provisions of sections 1054 and 1055 of this title in provisions designated as pars. (2) and (3). Former subsec. (b) incorporated in subsec. (c).

Subsec. (c). Pub. L. 92–318 incorporated existing provisions of subsec. (b)(1)–(4) in provisions designated as subpars. (A), (B), (D), and (E), added subpar. (C), and incorporated provisions of former subsec. (c) in last sentence following subpar. (E).

EFFECTIVE DATE OF 1972 AMENDMENT

Amendment by Pub. L. 92–318 effective after, and only with respect to appropriations made for fiscal years beginning after, June 30, 1972, see section 121(b) of Pub. L. 92–318, set out as a note under section 1051 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1053 of this title.

§ 1055. Assistance to developing institutions under other programs.

(a) Waivers, eligibility.

Each institution which the Commissioner determines meets the criteria set forth in section 1052(a) of this title shall be eligible for waivers in accordance with subsection (b) of this section.

(b) Other specified programs; regulations.

(1) Subject to, and in accordance with, regulations promulgated for the purpose of this section, in the case of any application by a developing institution for assistance under any program specified in paragraph (2), the Commissioner is authorized, if such application is otherwise approvable, to waive any requirement for a non-Federal share of the cost of the program or project, or, to the extent not inconsistent with other law, to give, or require to be given, priority consideration of the application in relation to applications from institutions which are not developing institutions.

(2) The provisions of this section shall apply to any program authorized by subchapter II, IV, VI, or VII of this chapter.

(c) Non-Federal share requirement.

The Commissioner shall not waive, under subsection (b) of this section, the non-Federal share requirement for any program for applications which, if approved, would require the expenditure of more than 10 per centum of the appropriations for that program for any fiscal year. (As amended Pub. L. 92–318, title I, § 121(a), June 23, 1972, 86 Stat. 244.)

AMENDMENTS

1972—Pub. L. 92–318 substituted provisions respecting assistance to developing institutions under other programs for former provisions for teaching fellowships, the persons eligible, applications, findings by Commissioner, and maximum period, which is now covered by section 1054 of this title.

EFFECTIVE DATE OF 1972 AMENDMENT

Amendment by Pub. L. 92-318 effective after, and only with respect to appropriations made for fiscal years beginning after, June 30, 1972, see section 121(b) of Pub. L. 92–318, set out as a note under section 1051 of this title.

§ 1056. Prohibition against use of funds for religious activities.

None of the funds appropriated pursuant to section 1051(b)(1) of this title shall be used for a school or department of divinity or for any religious worship or sectarian activity. (As amended Pub. L. 92–318, title I, § 121(a), June 23, 1972, 86 Stat. 245.)

AMENDMENTS

1972—Pub. L. 92-318 substituted provisions prohibiting use of funds for religious activities for former provisions respecting grants to retired professors setting out in subsec. (a) the purpose and procedure, subsec. (b) the dissemination of information, and subsec. (c) the maximum period and amount, which is now covered by section 1054 of this title.

EFFECTIVE DATE OF 1972 AMENDMENT

Amendment by Pub. L. 92-318 effective after, and only with respect to appropriations made for fiscal years beginning after, June 30, 1972, see section 121(b) of Pub. L. 92–318, set out as a note under section 1051 of this title.

SUBCHAPTER IV.—STUDENT ASSISTANCE

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 1055, 1105 of this title; title 38 section 1798.

§ 1060. Repealed. Pub. L. 92–318, title I, § 139B(b), June 23, 1972, 86 Stat. 282.

Section Pub. L. 90–575, title V, § 504, Oct. 16, 1968, 82 Stat. 1062, which related to eligibility for student assistance because of conviction of crimes involving force, disruption, or seizure of property of educational institution; refusal to obey regulations or orders and disruption of administration of institution; other misconduct, disciplinary proceedings, and freedom of expression; and description of programs covered by such disqualification, is now covered by section 1088f of this title.

EFFECTIVE DATE OF REPEAL

Section 139B(b) of Pub. L. 92–318 provided in part that repeal of this section shall be effective July 1, 1972.

§ 1061. Statement of purpose; authorization of appropriations.

* * * * *

(b) There are hereby authorized to be appropriated $170,000,000 for the fiscal year ending June 30, 1972, and $200,000,000 for each of the succeeding fiscal years ending prior to July 1, 1975, to enable the Commissioner to make payments to institutions of higher education that have agreements with him entered into under section 1067 of this title, for use by such institutions for payments to undergraduate students for the initial academic year of educational opportunity grants awarded to them under this part. There are further authorized to be appropriated such sums as may be necessary for payment to such institutions for use by them for making educational opportunity grants under this part to undergraduate students for academic years other than the initial year of their educational opportunity grants; but no appropriation may be made pursuant to this sentence for any fiscal year beginning more than three years after the last fiscal year for which an appropriation is authorized under the first sentence. Sums appropriated pursuant to this subsection for any fiscal year shall be available for payment to institutions until the close of the fiscal year succeeding the fiscal year for which they were appropriated. For the purposes of this subsection, payment for the first year of an educational opportunity grant shall not be considered as an initial-year payment if the educational opportunity grant was awarded for the continuing education of a student who had been previously awarded an educational opportunity grant under this part (whether by another institution or otherwise) and had received payment for any year of that educational opportunity grant. (As amended Pub. L. 92–318, title I, § 131(a)(1)(A), June 23, 1972, 86 Stat. 247.)

CODIFICATION

Another section 401 of Pub. L. 89-329, as amended Pub. L. 92-318, title I, § 131(b)(1), June 23, 1972, 86 Stat. 247, respecting statement of purpose and program authorization for grants to students in attendance at institutions of higher education, is classified to section 1070 of this title.

AMENDMENTS

1972—Subsec. (b). Pub. L. 92-318 authorized appropriations of one hundred seventy million dollars for fiscal year ending June 30, 1972, and two hundred million for each succeeding fiscal year ending prior to July 1, 1975, and deleted appropriations authorization of seventy million for each fiscal year ending June 30, 1966, 1967, 1968, and 1969, and one hundred twenty-five million and one hundred seventy million for fiscal years ending June 30, 1970, and 1971, respectively.

EFFECTIVE DATE OF 1972 AMENDMENT

Section 131(a)(2) of Pub. L. 92-318 provided that: "The amendments made by paragraph (1) [amending subsec. (b) of this section and section 1068(d) of this title] shall be effective after June 30, 1971."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1065, 1066, 1067, 1070b-3 of this title.

§ 1064. Time and manner of making application for grant; selection of recipients; conditions precedent to award.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1134h of this title.

§ 1068. Programs for identifying qualified low-income students and preparing them for post secondary education.

* * * * *

(d) Authorization of appropriations.

There are authorized to be appropriated to carry out this section $10,000,000 in the fiscal year ending June 30, 1969 (of which $500,000 shall be available in connection with planning and related activities for Upward Bound programs described in subsection (b)(2) of this section), $56,680,000 for the fiscal year ending June 30, 1970, and $96,000,000 for each of the succeeding fiscal years ending prior to June 30, 1975. (As amended Pub. L. 92-318, title I, § 131(a)(1)(B), June 23, 1972, 86 Stat. 247.)

AMENDMENTS

1972—Subsec. (d). Pub. L. 92-318 substituted appropriations authorization of "$96,000,000 for each of the succeeding fiscal years ending prior to June 30, 1975" for "$96,000,000 for the fiscal year ending June 30, 1971".

EFFECTIVE DATE OF 1972 AMENDMENT

Amendment of subsec. (d) of this section by Pub. L. 92-318 effective after June 30, 1971, see section 131(a)(2) of Pub. L. 92-318, set out as a note under section 1061 of this title.

PART A.—GRANTS TO STUDENTS IN ATTENDANCE AT INSTITUTIONS OF HIGHER EDUCATION [NEW]

PART REFERRED TO IN OTHER SECTIONS

This part is referred to in sections 1078, 1088c of this title.

§ 1070. Statement of purpose; program authorization.

(a) It is the purpose of this part, to assist in making available the benefits of postsecondary education to qualified students in institutions of higher education by—

(1) providing basic educational opportunity grants (hereinafter referred to as "basic grants") to all eligible students;

(2) providing supplemental educational opportunity grants (hereinafter referred to as "supplemental grants") to those students of exceptional need who, for lack of such a grant, would be unable to obtain the benefits of a postsecondary education;

(3) providing for payments to the States to assist them in making financial aid available to such students;

(4) providing for special programs and projects designed (A) to identify and encourage qualified youths with financial or cultural need with a potential for postsecondary education, (B) to prepare students from low-income families for postsecondary education, and (C) to provide remedial (including remedial language study) and other services to students; and

(5) providing assistance to institutions of higher education.

(b) The Commissioner shall, in accordance with subparts 1, 2, 3, 4, and 5, carry out programs to achieve the purposes of this part. (Pub. L. 89-329, title IV, § 401, as added and amended Pub. L. 92-318, title I, § 131(b)(1), title X, § 1001(c)(1), (2), June 23, 1972, 86 Stat. 247, 381.)

CODIFICATION

Another section 401 of Pub. L. 89-329, as amended, respecting statement of purpose and authorization of appropriations for educational opportunity grants, is classified to section 1061 of this title.

AMENDMENTS

1972—Subsec. (a)(5). Pub. L. 92-318, § 1001(c)(1), added par. (5).

Subsec. (b). Pub. L. 92-318, § 1001(c)(2), inserted reference to subpart 5.

EFFECTIVE DATE

Section 131(b)(2) of Pub. L. 92-318 provided that: "The amendment made by paragraph (1) [enacting this Part A] shall be effective after June 30, 1972."

STUDY OF THE FINANCING OF POSTSECONDARY EDUCATION

Section 140 of Pub. L. 92-318, as amended Pub. L. 92-531, § 1, Oct. 23, 1972, 86 Stat. 1051; Pub. L. 93-35, § 1, May 16, 1973, 87 Stat. 72, provided that:

"(a) [*Statement of Purpose; Scope of Study.*] (1) It is the purpose of this section to authorize a study of the impact of past, present, and anticipated private, local, State, and Federal support for postsecondary education, the appropriate role for the States in support of higher education (including the application of State law upon postsecondary educational opportunities), alternative student assistance programs, and the potential Federal, State, and private participation in such programs.

"(2) In order to give the States and the Nation the information needed to assess the dimensions of, and extent of, the financial crisis confronting the Nation's postsecondary institutions such study shall determine the need, the desirability, the form, and the level of additional governmental and private assistance. Such study shall include at least (A) an analysis of the existing programs of aid to institutions of higher education, various alternative proposals presented to the Congress to provide assistance to institutions of higher education, as well as other viable alternatives which, in the judgment of the Commission, merit inclusion in such a study; (B) the costs, advantages and disadvantages, and the extent to which each proposal would preserve the diversity and independence of such institutions; and (C) the extent to which each would advance the national goal of making postsecondary education accessible to all individuals, including returning veterans, having the desire and ability to continue their education.

"(b) [*National Commission on the Financing of Postsecondary Education; Compensation; Establishment; Termination.*] (1) There is hereby established, as an independent agency within the executive branch, a National Commission on the Financing of Postsecondary Education (referred to in this section as the 'Commission'). Upon the submission of its final report required by subsection (d) the Commission shall cease to exist, except that it shall, if necessary, have a reasonable time (but not later than June 30, 1974) to terminate the affairs of the Commission.

"(2) The Department of Health, Education, and Welfare shall provide the Commission with necessary administrative services (including those related to budgeting, accounting, financial reporting, personnel and procurement) for which payment shall be made in advance, or by reimbursement, from funds of the Commission and such amounts as may be agreed upon by the Commission and the Secretary of Health, Education, and Welfare.

"(3) The Commission shall have authority to accept in the name of the United States, grants, gifts, or bequests of money for immediate disbursement in furtherance of

the functions of the Commission. Such grants, gifts or bequests, after acceptance by the Commission, shall be paid by the donor or his representative to the Treasurer of the United States whose receipts shall be their acquittance. The Treasurer of the United States shall enter them in a special account to the credit of the Commission for the purposes in each case specified.

"(4) Members of the Commission shall be entitled to receive the daily equivalent of the annual rate of basic pay in effect for grade GS–18 under section 5332 of Title 5, United States Code, for each day (including traveltime) during which they are engaged in the actual performance of duties vested in the Commission, except that members of the Commission who are full-time officers or employees of the United States or Members of Congress shall receive no additional pay on account of their services on the Commission. While away from their homes or regular places of business in the performance of services for the Commission, all members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in Government service are allowed expenses under section 5703(b) of Title 5, United States Code.

"(c) [*Considerations.*] In conducting such a study, the Commission shall consider—

"(1) the nature and causes of serious financial distress facing institutions of postsecondary education; and

"(2) alternative models for the long range solutions to the problems of financing postsecondary education with special attention to the potential Federal, State, local, and private participation in such programs, including, at least—

"(A) the assessment of previous related private and governmental studies and their recommendations;

"(B) existing State and local programs of aid to postsecondary institutions;

"(C) the level of endowment, private sector support and other incomes of postsecondary institutions and the feasibility of Federal and State income tax credits for charitable contributions to postsecondary institutions;

"(D) the level of Federal support of postsecondary institutions through such programs as research grants, and other general and categorical programs;

"(E) alternative forms of student assistance, including at least loan programs based on income contingent lending, loan programs which utilize fixed, graduated repayment schedules, loan programs which provide for cancellation or deferment of all or part of repayment in any given year based on a certain level of a borrower's income; and existing student assistance programs including those administered by the Office of Education, the Social Security Administration, the Public Health Service, the National Science Foundation, and the Veterans Administration; and

"(F) suggested national uniform standards for determining the annual per student costs of providing postsecondary education for students in attendance at various types and classes of institutions of higher education.

"(d) [*Report to President and Congress; National Uniform Standards Report to Congress.*] No later than December 31, 1973, the Commission shall make a final report to the President and Congress on the results of the investigation and study authorized by this section, together with such findings and recommendations, including recommendations for legislation, as it deems appropriate, including suggested national uniform standards referred to in subsection (c)(2)(F) and any related recommendations for legislation. No later than 60 days after the final report the Commissioner shall make a report to the Congress commenting on the Commission's suggested national uniform standards, and incorporating his recommendations with respect to national uniform standards together with any related recommendations for legislation.

"(e) [*Contract Authority.*] In order to carry out the provisions of this part, the Commission is authorized to—

"(1) enter into contracts with institutions of postsecondary education and other appropriate individuals, public agencies, and private organizations;

"(2) appoint and fix the compensation of such personnel as may be necessary;

"(3) employ experts and consultants in accordance wtih section 3109 of title 5, United States Code;

"(4) utilize, with their consent, the services, personnel, information and facilities of other Federal, State, local, and private agencies with or without reimbursement; and

"(5) consult with the heads of such Federal agencies as it deems appropriate.

"(f) [*Hearings; Federal Cooperation.*] (1) The Commission is further authorized to conduct such hearings at such times and places as it deems appropriate for carrying out the purposes of this section.

"(2) The heads of all Federal agencies are, to the extent not prohibited by law, directed to cooperate with the Commission in carrying out this section.

"(g) [*Members; representation; Chairman; Vice Chairman; Quorum; Terms.*] (1) The Commission shall be composed of—

"(A) two members of the Senate who shall be members of the different political parties and who shall be appointed by the President of the Senate;

"(B) two Members of the House of Representatives who shall be members of different political parties and who shall be appointed by the Speaker of the House of Representatives; and

"(C) not to exceed thirteen members appointed by the President not later than ninety days after the date of enactment of this Act [June 23, 1972].

"Such members shall be appointed from—

"(i) members of State and local educational agencies;

"(ii) State and local government officials;

"(iii) education administrators from private and public higher education institutions and community colleges;

"(iv) teaching faculty;

"(v) financial experts from the private sector;

"(vi) students;

"(vii) the Office of Education; and

"(viii) other appropriate fields.

"(2) The President shall designate one of the members to serve as Chairman and one to serve as Vice Chairman of the Commission.

"(3) The majority of the members of the Commission shall constitute a quorum, but a lesser number may conduct hearings.

"(4) The terms of office of the appointive members of the Commission shall expire after submission of the final report.

"(h) [*Authorization of Appropriations.*] There are hereby authorized to be appropriated $1,500,000 for the period beginning on the date of enactment of this Act [June 23, 1972] and ending July 1, 1974, for the purpose of carrying out the provisions of this section."

Section 3 of Pub. L. 93–35, May 16, 1973, 87 Stat. 72, provided that: "The provisions of this joint resolution [which enacted note set out under section 1070a of this title and amended provision set out as a note above] shall be effective on and after May 1, 1973, and such provisions shall be deemed to be enacted immediately before such date."

Subpart 1—Basic Educational Opportunity Grants

SUBPART REFERRED TO IN OTHER SECTIONS

This subpart is referred to in sections 1070, 1070b–1, 1070e, 1078 of this title.

§ 1070a. Basic educational opportunity grants: amount and determinations; applications.

(a) Student payments; basic grant formula; reductions schedule; limitations; actual cost of attendance; effective date; submittal to Congress; family contributions; regulations, criteria; effective family income; noncredit remedial course of study; publications in Federal Register.

(1) The Commissioner shall, during the period beginning July 1, 1972, and ending June 30, 1975, pay to each student who has been accepted for enrollment in, or is in good standing at, an institution of

higher education (according to the prescribed standards, regulations, and practices of that institution) for each academic year during which that student is in attendance at that institution, as an undergraduate, a basic grant in the amount for which that student is eligible, as determined pursuant to paragraph (2).

(2)(A)(i) The amount of the basic grant for a student eligible under this subpart for any academic year shall be $1,400, less an amount equal to the amount determined under paragraph (3) to be the expected family contribution with respect to that student for that year.

(ii) In any case where a student attends an institution of higher education on less than a full-time basis during any academic year, the amount of the basic grant to which that student is entitled shall be reduced in proportion to the degree to which that student is not so attending on a full-time basis, in accordance with a schedule of reductions established by the Commissioner for the purposes of this division. Such schedule of reductions shall be established by regulation and published in the Federal Register not later than February 1 of each year.

(B)(i) The amount of a basic grant to which a student is entitled under this subpart for any academic year shall not exceed 50 percentum of the actual cost of attendance at the institution at which the student is in attendance for that year.

(ii) No basic grant under this subpart shall exceed the difference between the expected family contribution for a student and the actual cost of attendance at the institution at which that student is in attendance. If with respect to any student, it is determined that the amount of a basic grant plus the amount of the expected family contribution for that student exceeds the actual cost of attendance for that year, the amount of the basic grant shall be reduced until the combination of expected family contribution and the amount of the basic grant does not exceed the actual cost of attendance at such institution.

(iii) No basic grant shall be awarded to a student under this subpart if the amount of that grant for that student as determined under this paragraph for any academic year is less than $200. Pursuant to criteria established by the Commissioner by regulation, the institution of higher education at which a student is in attendance may award a basic grant of less than $200 upon a determination that the amount of the basic grant for that student is less than $200 because of the requirement of division (i) and that, due to exceptional circumstances, this reduced grant should be made in order to enable the student to benefit from postsecondary education.

(iv) For the purpose of this subparagraph and subsection (b) of this section the term "actual cost of attendance" means, subject to regulations of the Commissioner, the actual per-student charges for tuition, fees, room and board (or expenses related to reasonable commuting), books, and an allowance for such other expenses as the Commissioner determines by regulation to be reasonably related to attendance at the institution at which the student is in attendance.

(3)(A)(i) Not later than February 1 of each year the Commissioner shall publish in the Federal Register a schedule of expected family contributions for the succeeding academic year for various levels of family income, which, except as is otherwise provided in division (ii), together with any amendments thereto, shall become effective July 1 of that year. During the thirty-day period following such publication the Commissioner shall provide interested parties with an opportunity to present their views and make recommendations with respect to such schedule.

(ii) The schedule of expected family contributions required by division (i) for each academic year shall be submitted to the President of the Senate and the Speaker of the House of Representatives not later than February 1 of that year. If either the Senate or the House of Representatives adopts, prior to May 1 of such year, a resolution of disapproval of such schedule, the Commissioner shall publish a new schedule of expected family contributions in the Federal Register not later than fifteen days after the adoption of such resolution of disapproval. Such new schedule shall take into consideration such recommendations as may be made in connection with such resolution and shall become effective, together with any amendments thereto, on July 1 of that year.

(B)(i) For the purposes of this paragraph and subsection (b) of this section, the term "family contribution" with respect to any student means the amount which the family of that student may be reasonably expected to contribute toward his postsecondary education for the academic year for which the determination under subparagraph (A) of paragraph (2) is made, as determined in accordance with regulations. In promulgating such regulations, the Commissioner shall follow the basic criteria set forth in division (ii) of this subparagraph.

(ii) The basic criteria to be followed in promulgating regulations with respect to expected family contribution are as follows:

(I) The amount of the effective income of the student or the effective family income of the student's family.

(II) The number of dependents of the family of the student.

(III) The number of dependents of the student's family who are in attendance in a program of postsecondary education and for whom the family may be reasonably expected to contribute for their postsecondary education.

(IV) The amount of the assets of the student and those of the student's family.

(V) Any unusual expenses of the student or his family, such as unusual medical expenses, and those which may arise from a catastrophe.

(iii) For the purposes of clause (I) of division (ii), the term "effective family income" with respect to a student means the annual adjusted family income, as determined in accordance with regulations prescribed by the Commissioner, received by the parents or guardian of that student (or the person or persons having an equivalent relationship to such student) minus Federal income tax paid or payable with respect to such income.

(iv) In determining the expected family contribution with respect to any student, any amount paid under the Social Security Act to, or on account of, the student which would not be paid if he were not a student, and one-half any amount paid the student under chapters 34 and 35 of Title 38, shall be considered as effective income for such student.

(C) The Commissioner shall promulgate special regulations for determining the expected family contribution and effective family income of a student who is determined (pursuant to regulations of the Commissioner) to be independent of his parents or guardians (or the person or persons having an equivalent relationship to such student). Such special regulations shall be consistent with the basic criteria set forth in division (ii) of subparagraph (B).

(4)(A) The period during which a student may receive basic grants shall be the period required for the completion of the undergraduate course of study being pursued by that student at the institution at which the student is in attendance, except that such period may not exceed four academic years unless—

(i) The student is pursuing a course of study leading to a first degree in a program of study which is designed by the institution offering it to extend over five academic years; or

(ii) the student is, or will be, unable to complete a course of study within four academic years because of a requirement of the institution of such course of study that the student enroll in a noncredit remedial course of study;

in either which case such period may be extended for not more than one additional academic year.

(B) For the purposes of clause (ii) of subparagraph (A), a "noncredit remedial course of study" is a course of study for which no credit is given toward an academic degree, and which is designed to increase the ability of the student to engage in an undergraduate course of study leading to such a degree.

(b) Payments; insufficient available funds, entitlements; excess funds.

(1) The Commissioner shall from time to time set dates by which students must file applications for basic grants under this subpart.

(2) Each student desiring a basic grant for any year must file an application therefor containing such information and assurances as the Commissioner may deem necessary to enable him to carry out his functions and responsibilities under this subpart.

(3)(A) Payments under this section shall be made in accordance with regulations promulgated by the Commissioner for such purpose, in such manner as will best accomplish the purposes of this section.

(B)(i) If, during any period of any fiscal year, the funds available for payments under this subpart are insufficient to satisfy fully all entitlements under this subpart, the amount paid with respect to each such entitlement shall be—

(I) in the case of any entitlement which exceeds $1,000, 75 per centum thereof;

(II) in the case of any entitlement which exceeds $800 but does not exceed $1,000, 70 per centum thereof;

(III) in the case of any entitlement which exceeds $600 but does not exceed $800, 65 per centum thereof; and

(IV) in the case of any entitlement which does not exceed $600, 50 per centum thereof.

(ii) If, during any period of any fiscal year, funds available for making payments under this subpart exceed the amount necessary to make the payments prescribed in division (i), such excess shall be paid with respect to each entitlement under this subpart in proportion to the degree to which that entitlement is unsatisfied, after payments are made pursuant to division (i).

(iii) In the event that, at the time when payments are to be made pursuant to this subparagraph (B), funds available therefor are insufficient to pay the amounts set forth in division (i), the Commissioner shall pay with respect to each entitlement an amount which bears the same ratio to the appropriate amount set forth in division (i) as the total amount of funds so available at such time for such payments bears to the amount necessary to pay the amounts indicated in division (i) in full.

(iv) No method of computing or manner of distribution of payments under this subpart shall be used which is not consistent with this subparagraph.

(v) In no case shall a payment under this subparagraph be made if the amount of such payment after application of the provisions of this subparagraph is less than $50.

(C)(i) During any fiscal year in which the provisions of subparagraph (B) apply, a basic grant to any student shall not exceed 50 per centum of the difference between the expected family contribution for that student and the actual cost of attendance at the institution in which the student is enrolled, unless sums available for making payments under this subsection for any fiscal year equal more than 75 per centum of the total amount to which all students are entitled under this subpart for that fiscal year, in which case no basic grant shall exceed 60 per centum of such difference.

(ii) The limitation set forth in division (i) shall, when applicable, be in lieu of the limitation set forth in subparagraph (B)(i) of subsection (a)(2) of this section.

(4) No payments may be made on the basis of entitlements established under this subpart during any fiscal year ending prior to July 1, 1975, in which—

(A) the appropriation for making grants under subpart 2 of this part does not at least equal $130,093,000; and

(B) the appropriation for work-study payments under section 2751 of Title 42 does not at least equal $237,400,000; and

(C) the appropriation for capital contributions to student loan funds under part D of this subchapter does not at least equal $286,000,000.

(Pub. L. 89–329, title IV, § 411, as added Pub. L. 92–318, title I, § 131(b)(1), June 23, 1972, 86 Stat. 248.)

REFERENCES IN TEXT

The Social Security Act, referred to in subsec. (a)(3)(B)(iv), is classified to chapter 7 of Title 42, The Public Health and Welfare.

EFFECTIVE DATE

Section effective after June 30, 1972, see section 131(b)(2) of Pub. L. 92–318, set out as a note under section 1070 of this title.

AVAILABILITY OF UNEXPENDED FUNDS

Pub. L. 94–43, § 4, June 28, 1975, 89 Stat. 233, provided that: "Funds appropriated for making payments of basic educational opportunity grants, during fiscal year 1975, under subpart 1 of part A of title IV of the Higher Education Act of 1965 [this subpart] to eligible students in accordance with the payment schedule in effect under section 411(b) [subsection (b) of this section] for fiscal year 1975 which are in excess of the amount paid under such section prior to the end of such fiscal year shall remain available for payments under such section during fiscal year 1976."

LIMITATION ON PAYMENT OF GRANTS

Pub. L. 93–35, § 2, May 16, 1973, 87 Stat. 72, provided that: "If the appropriation for the fiscal year 1973 for making payments under subpart 1 of part A of title IV of the Higher Education Act of 1965 [this subpart] does not exceed $385,000,000, payments under such subpart from such appropriation shall not be paid on the basis of any entitlement for any student (1) who was in attendance, as a regular student (as defined by the Commissioner of Education), at an institution of higher education prior to July 1, 1973, or (2) who is in attendance at such an institution on less than a full-time basis."

Provisions of section 2 of Pub. L. 93–35 to be effective on and after May 1, 1973, with such provisions deemed to be enacted immediately before such date, see section 3 of Pub. L. 93–35, set out as a note under section 1070 of this title.

Subpart 2.—Supplemental Educational Opportunity Grants

SUBPART REFERRED TO IN OTHER SECTIONS

This subpart is referred to in sections 1070, 1070a, 1070e of this title.

§ 1070b. Purpose; authorization of appropriations; initial year payment provisions.

(a) It is the purpose of this subpart to provide, through institutions of higher education, supplemental grants to assist in making available the benefits of postsecondary education to qualified students who, for lack of financial means, would be unable to obtain such benefits without such a grant.

(b)(1) For the purpose of enabling the Commissioner to make payments to institutions of higher education which have made agreements with the Commissioner in accordance with section 1070b–2(b) of this title, for use by such institutions for payments to undergraduate students for the initial academic year of a supplemental grant awarded to them under this subpart, there are authorized to be appropriated $200,000,0000 for the fiscal year ending June 30, 1973, and for each of the succeeding fiscal years ending prior to July 1, 1975. Funds appropriated pursuant to this paragraph shall be appropriated separate from any funds appropriated pursuant to paragraph (2).

(2) In addition to the sums authorized to be appropriated by paragraph (1), there are authorized to be appropriated such sums as may be necessary for payment to institutions of higher education for use by such institutions for making continuing supplemental grants under this subpart, except that no appropriation may be made pursuant to this paragraph for any fiscal year beginning more than three years after the last fiscal year for which an appropriation is authorized under paragraph (1). Funds appropriated pursuant to this paragraph shall be appropriated separate from any funds appropriated pursuant to paragraph (1).

(3) Sums appropriated pursuant to this subsection for any fiscal year shall be available for payments to institutions until the end of the fiscal year succeeding the fiscal year for which they were appropriated.

(4) For the purposes of this subsection, payment for the first year of a supplemental grant shall not be considered as an initial year payment if the grant was awarded for the continuing education of a student who—

(A) had been previously awarded a supplemental grant under this subpart (whether by another institution or otherwise), and

(B) had received payment for any year of that supplemental grant.

(Pub. L. 89–329, title IV, § 413A, as added Pub. L. 92–318, title I, § 131(b)(1), June 23, 1972, 86 Stat. 251.)

EFFECTIVE DATE

Section effective after June 30, 1972, see section 131(b)(2) of Pub. L. 92–318, set out as a note under section 1070 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1070b–3 of this title.

§ 1070b–1. Amount and duration of grants.

(a) Limitation; student financial aid; basic criteria and schedules.

(1) From the funds received by it for such purpose under this subpart, an institution which awards a supplemental grant to a student for an academic year under this subpart shall, for such year, pay to that student an amount determined pursuant to paragraph (2).

(2)(A)(i) The amount of the payment to any student pursuant to paragraph (1) shall be equal to the amount determined by the institution to be needed by that student to enable him to pursue a course of study at the institution, except that such amount shall not exceed—

(I) $1,500, or

(II) one-half the sum of the total amount of student financial aid provided to such student by such institution,

whichever is the lesser.

(ii) No student shall be paid during all the academic years he is pursuing his undergraduate course of study at one or more institutions of higher education in excess of $4,000 or in the case of any student to whom the provisions of subsection (b)(1)(B) of this section apply, $5,000.

(iii) For the purposes of clause (II) of division (i), the term "student financial aid" includes assistance payments to the student under subpart 1 of this part and sections 2751 to 2756 of Title 42 and part D of this subchapter, and any assistance provided to a student under any scholarship program established by a State or a private institution or organization, as determined in accordance with regulations, shall be deemed to be aid provided such student by the institution.

(B) If the amount determined under division (i) of subparagraph (A) with respect to a student for

any academic year is less than $200, no payment shall be made to that student for that year.

(C) Subject to subparagraphs (A) and (B), the Commissioner shall prescribe, for the guidance of institutions, basic criteria and schedules for the determination of the amount of need to be determined under division (i) of subparagraph (A). Such criteria and schedules shall take into consideration the objective of limiting assistance under this subpart to students of financial need, and such other factors related to determining the need of students for financial assistance as the Commissioner deems relevant but such criteria or schedules shall not disqualify an applicant on account of his earned income if income from other sources in the amount of such earned income would not disqualify him.

(b) Five-year programs; academic and attendance standards; nonattendance.

(1) (A) A student eligible for a supplemental grant may be awarded such a grant under this subpart for each academic year of the period required for completion by the recipient of his undergraduate course of study in the institution of higher education from which he received such a grant.

(B) A student may not receive supplemental grants under this subpart for a period of more than four academic years, except that in the case of a student—

(i) who is pursuing a course of study leading to a first degree in a program of study which is designed by the institution offering it to extend over five academic years, or

(ii) who is because of his particular circumstances determined by the institution to need an additional year to complete a course of study normally requiring four academic years,

such period may be extended for not more than one additional academic year.

(2) A supplemental grant awarded under this subpart shall entitle the student to whom it is awarded to payments pursuant to such grant only if—

(A) that student is maintaining satisfactory progress in the course of study he is pursuing, according to the standards and practices of the institution awarding the grant, and

(B) that student is devoting at least half-time to that course of study, during the academic year, in attendance at that institution.

Failure to be in attendance at the institution during vacation periods or periods of military service, or during other periods during which the Commissioner determines, in accordance with regulations, that there is good cause for his nonattendance, shall not render a student ineligible for a supplemental grant; but no payments may be made to a student during any such period of failure to be in attendance or period of nonattendance. (Pub. L. 89–329, title IV, § 413B, as added Pub. L. 92–318, title I, § 131(b)(1), June 23, 1972, 86 Stat. 252.)

EFFECTIVE DATE

Section effective after June 30, 1972, see section 131(b)(2) of Pub. L. 92–318, set out as a note under section 1061 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1070b–2 of this title.

§ 1070b–2. Selection of recipients; agreements with institutions.

(a) Eligibility requirements.

(1) An individual shall be eligible for the award of a supplemental grant under this subpart by an institution of higher education which has made an agreement with the Commissioner pursuant to subsection (b) of this section, if the individual makes application at the time and in the manner prescribed by that institution, in accordance with regulations of the Commissioner.

(2) From among those who are eligible for supplemental grants through an institution which has an agreement with the Commissioner under subsection (b) of this section for each fiscal year, the institution shall, in accordance with such agreement under subsection (b) of this section and within the amount allocated to the institution for that purpose for that year under section 1070b–3(b) of this title select individuals who are to be awarded such grants and determine; in accordance with section 1070b–1 of this title, the amounts to be paid to them. An institution shall not award a supplemental grant to an individual unless it determines that—

(A) he has been accepted for enrollment as an undergraduate student at such institution or, in the case of a student already attending such institution, is in good standing there as an undergraduate;

(B) he shows evidence of academic or creative promise and capability of maintaining good standing in this course of study;

(C) he is of exceptional financial need; and

(D) he would not, but for a supplemental grant, be financially able to pursue a course of study at such institution.

For the purposes of clause (C) of this paragraph, in determining financial need, the expected family contribution shall be considered to be the contribution expected in the specific circumstances of the student as determined by the student financial aid officer at the institution in accordance with criteria promulgated by the Commissioner. Any calculation of the ability of a family to contribute shall include consideration of (i) family assets which should reasonably be available for such purpose, (ii) the number of children in the family, (iii) the number of children attending institutions of higher education, (iv) any catastrophic illness in the family, (v) any educational expenses of other dependent children in the family, and (vi) other circumstances affecting the student's financial need.

(b) Institutional agreement provisions.

An institution of higher education which desires to obtain funds for supplemental grants under this subpart shall enter into an agreement with the Commissioner. Such agreement shall—

(1) provide that funds received by the institution under this subpart will be used by it solely for the purposes specified in, and in accordance with, the provisions of this subpart and of section 1087cc of this title;

(2) provide that, in determining whether an individual meets the requirements of clause (C)

of paragraph (2) of subsection (a) of this section, the institution will—

(A) consider the source of such individual's income and that of any individual or individuals upon whom he relies primarily for support, and

(B) make appropriate review of the assets of the student and of such individuals;

(3) provide that the institution, in cooperation with other eligible institutions where appropriate, will make vigorous efforts to identify qualified youths of exceptional financial needs, and to encourage them to continue their education beyond secondary school through such programs and activities as—

(A) establishing or strengthening close working relationships with secondary school principals and guidance and counseling personnel, with a view toward motivating students to complete secondary school and to pursue postsecondary school educational opportunities, and

(B) making, to the extent feasible, conditional commitments for student financial aid by such institution to qualified secondary school students, who but for such grants would be unable to obtain the benefits of higher education, with special emphasis on students enrolled in grade 11 or lower grades who show evidences of academic or creative promise;

(4) provide that the institution will meet the requirements of section 1087dd of this title;

(5) include provisions designed to make grants under this subpart reasonably available, to the extent of available funds, to all eligible students in attendance at the institution;

(6) include such other provisions as may be necessary to protect the financial interest of the United States and promote the purposes of this subpart.

(Pub. L. 89–329, title IV, § 431C, as added Pub. L. 92–318, title I, § 131(b)(1), June 23, 1972, 86 Stat. 253.)

EFFECTIVE DATE

Section effective after June 30, 1972, see section 131(b)(2) of Pub. L. 92–318, set out as a note under section 1070 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1070b of this title.

§ 1070b–3. Apportionment and allocation of funds; apportionment ratio; State apportionment; consolidation; excess, reapportionment; time for applications; equitable criteria for allocations; payments from allocations.

(a)(1)(A) From 90 per centum of the sums appropriated pursuant to section 1070b(b)(1) of this title for any fiscal year, the Commissioner shall apportion to each State an amount which bears the same ratio to such sums as the number of persons enrolled full-time and the full-time equivalent of the number of persons enrolled part time in institutions of higher education in such State bears to the total number of such persons in all the States. The remainder of the sums so appropriated shall be apportioned among the States by the Commissioner in accordance with equitable criteria which he shall establish and which shall be designed to achieve a distribution of the sum so appropriated among the States which will most effectively carry out the purpose of this subpart, except that where any State's apportionment under the first sentence for a fiscal year is less than its allotment under the first sentence of section 1061(b) of this title for the fiscal year ending June 30, 1972, before he makes any other apportionments under this sentence, the Commissioner shall apportion sufficient additional sums to such State under this sentence to make the State's apportionment for that year under this paragraph equal to its allotment for the fiscal year ending June 30, 1972, under such first sentence. Sums apportioned to a State under the preceding sentence shall be consolidated with, and become a part of, its apportionment from the same appropriation under the first sentence of this paragraph.

(B) If the Commissioner determines that the sums apportioned to any State under subparagraph (A) for any fiscal year exceed the aggregate of the amounts that he determines to be required under subsection (b) of this section for the fiscal year for institutions of higher education in that State, the Commissioner shall reapportion such excess, from time to time, on such date or dates as he shall fix, to other States in such manner as the Commissioner determines will best assist in achieving the purposes of this subpart.

(2) Sums appropriated pursuant to section 1070b(b)(2) of this title for any fiscal year shall be apportioned among the States in such manner as the Commissioner determines will best achieve the purposes for which such sums were appropriated.

(b)(1)(A) The Commissioner shall, from time to time, set dates before which institutions in any State must file applications for allocation, to such institutions, of supplemental grant funds from the apportionment to that State (including any reapportionment thereto) for any fiscal year pursuant to subsection (a)(1) of this section.

(B)(i) From the sums apportioned (or reapportioned) to any State, the Commissioner shall allocate amounts to institutions which have submitted applications pursuant to subparagraph (A).

(ii) Allocations under division (i) by the Commissioner to such institutions shall be made in accordance with equitable criteria established by the Commissioner by regulation. Such criteria shall be designed to achieve such distribution of supplemental grant funds among such institutions within a State as will most effectively carry out the purposes of this subpart.

(2) The Commissioner shall, in accordance with regulations, allocate to such institutions in any State, from funds apportioned or reapportioned pursuant to subsection (a)(2) of this section, funds to be used as the supplemental grants specified in section 1070b(b)(2) of this title.

(3) Payments shall be made from allocations under this subsection as needed. (Pub. L. 89–329, title IV, § 413D, as added Pub. L. 92–318, title I, § 131(b)(1) June 23, 1972, 86 Stat. 254.)

EFFECTIVE DATE

Section effective after June 30, 1972, see section 131(b)(2) of Pub. L. 92–318, set out as a note under section 1070 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1070b–2, 1088e of this title.

Subpart 3—Grants to States for State Student Incentives

SUBPART REFERRED TO IN OTHER SECTIONS

This subpart is referred to in section 1070 of this title.

§ 1070c. Purpose; authorization of appropriations; initial awards.

(a) It is the purpose of this subpart to make incentive grants available to the States to assist them in providing grants to eligible students in attendance at institutions of higher education.

(b) (1) There are hereby authorized to be appropriated $50,000,000 for the fiscal year ending June 30, 1973, and for each of the succeeding fiscal years ending prior to July 1, 1975, for payments to the States for grants to students who have not previously been awarded such grants.

(2) In addition to the sums authorized to be appropriated pursuant to paragraph (1), there is authorized to be appropriated such sums as may be necessary for making payments to States to continue their grants to students made with incentive grants received by such States for previous years pursuant to paragraph (1).

(3) Sums appropriated pursuant to paragraph (1) for any fiscal year shall remain available for payments to States for the award of student grants under this subpart until the end of the fiscal year succeeding the fiscal year for which such sums were appropriated.

(4) For the purposes of this subsection, a payment on the first year of a student grant with respect to any student who has not been awarded a grant from appropriations pursuant to paragraph (1) during any previous year shall be considered, subject to regulations of the Commissioner, an initial award to be paid from appropriations pursuant to paragraph (1). (Pub. L. 89–329, title IV, § 415A, as added Pub. L. 92–318, title I § 131(b)(1), June 23, 1972, 86 Stat. 255.)

EFFECTIVE DATE

Section effective after June 30, 1972, see section 131(b)(2) of Pub. L. 92–318, set out as a note under section 1070 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1070c–1 of this title.

§ 1070c–1. Allotment among States.

(a) (1) (A) From the sums appropriated pursuant to section 1070c(b)(1) of this title for any fiscal year, the Commissioner shall allot to each State an amount which bears the same ratio to such sums as the number of students in attendance at institutions of higher education in such State bears to the total number of such students in such attendance in all the States.

(B) For the purposes of this paragraph, the number of students in attendance at institutions of higher education in a State and in all the States shall be determined by the Commissioner for the most recent year for which satisfactory data are available to him.

(2) The amount of any State's allotment under paragraph (1) for any fiscal year which the Commissioner determines will not be required for such fiscal year for the State student grant incentive program of that State shall be available for reallotment from time to time, on such dates during such year as the Commissioner may fix, to other States in proportion to the original allotments to such States under such part for such year, but with such proportionate amount for any of such States being reduced to the extent it exceeds the sum the Commissioner estimates such State needs and will be able to use for such year for carrying out the State plan; and the total of such reductions shall be similarly reallotted among the States whose proportionate amounts were not so reduced. Any amount reallotted to a State under this part during a year from funds appropriated pursuant to section 1070c(b)(1) of this title shall be deemed part of its allotment under paragraph (1) for such year.

(b) Sums appropriated pursuant to section 1070c(b)(2) of this title for any fiscal year shall be allotted among the States in such manner as the Commissioner determines will best achieve the purposes for which such sums were appropriated.

(c) The Commissioner shall make payments for continuing incentive grants only to those States, which continue to meet the requirements of section 1070c–2(b)(1), (2), (3), and (5) of this title. (Pub. L. 89–329, title IV, § 415B, as added Pub. L. 92–318, title I, § 131(b)(1), June 23, 1972, 86 Stat. 256.)

EFFECTIVE DATE

Section effective after June 30, 1972, see section 131(b)(2) of Pub. L. 92–318, set out as a note under section 1070 of this title.

§ 1070c–2. Applications for State student incentive grant programs.

(a) A State which desires to obtain a payment under this subpart for any fiscal year shall submit an application therefor through the State agency administering its program of student grants, at such time or times, and containing such information as may be required by, or pursuant to, regulation for the purpose of enabling the Commissioner to make the determinations required under this subpart.

(b) From a State's allotment under this subpart for any fiscal year the Commissioner is authorized to make payments to such State for paying 50 per centum of the amount of student grants pursuant to a State program which—

(1) is administered by a single State agency;

(2) provides that such grants will be in amounts not in excess of $1,500 per academic year for attendance on a full-time basis as an undergraduate at an institution of higher education;

(3) provides for the selection of recipients of such grants on the basis of substantial financial need determined annually on the basis of criteria established by the State and approved by the Commissioner;

(4) provides for the payment of the non-Federal portion of such grants from funds supplied by such State which represent an additional expenditure for such year by such State for grants for students attending institutions of higher education over the amount expended by such State for such grants, if any, during the second fiscal year preceding the fiscal year in which such State initially received funds under this subpart; and

(5) provides (A) for such fiscal control and fund accounting procedures as may be necessary to assure proper disbursement of and accounting for Federal funds paid to the State agency under this subpart, and (B) for the making of such reports, in such form and containing such information, as may be reasonably necessary to enable the Commissioner to perform his functions under this subpart.

(c) Upon his approval of any application for a payment under this subpart, the Commissioner shall reserve from the applicable allotment (including any applicable reallotment) available therefor, the amount of such payment, which (subject to the limits of such allotment or reallotment) shall be equal to the Federal share of the cost of the student incentive grants covered by such application. The Commissioner shall pay such reserved amount, in advance or by way of reimbursement, and in such installments as he may determine. The Commissioner's reservation of any amount under this section may be amended by him, either upon approval of an amendment of the application or upon revision of the estimated cost of the student grants with respect to which such reservation was made, and in the event of an upward revision of such estimated cost approved by him he may reserve the Federal share of the added cost only from the applicable allotment (or reallotment) available at the time of such approval. (Pub. L. 89–329, title IV, § 415C, as added Pub. L. 92–318, title I, § 131(b)(1), June 23, 1972, 86 Stat. 256.)

EFFECTIVE DATE

Section effective after June 30, 1972, see section 131(b)(2) of Pub. L. 92–318, set out as a note under section 1070 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1070c–1, 1070c–3 of this title.

§ 1070c–3. Administration of State programs; judicial review.

(a) Noncompliance, notification.

(1) The Commissioner shall not finally disapprove any application for a State program submitted under section 1070c–2 of this title, or any modification thereof, without first affording the State agency submitting the program reasonable notice and opportunity for a hearing.

(2) Whenever the Commissioner, after reasonable notice and opportunity for hearing to the State agency administering a State program approved under this subpart, finds—

(A) that the State program has been so changed that it no longer complies with the provisions of this subpart, or

(B) that in the administration of the program there is a failure to comply substantially with any such provisions,

the Commissioner shall notify such State agency that the State will not be regarded as eligible to participate in the program under this subpart until he is satisfied that there is no longer any such failure to comply.

(b) Appeal; fact findings, modification; jurisdiction.

(1) If any State is dissatisfied with the Commissioner's final action with respect to the approval of its State program submitted under this subpart or with his final action under subsection (a) of this section, such State may appeal to the United States court of appeals for the circuit in which such State is located. The summons and notice of appeal may be served at any place in the United States. The Commissioner shall forthwith certify and file in the court the transcript of the proceedings and the record on which he based his action.

(2) The findings of fact by the Commissioner, if supported by substantial evidence, shall be conclusive; but the court, for good cause shown, may remand the case to the Commissioner to take further evidence, and the Commissioner may thereupon make new or modified findings of fact and may modify his previous action, and shall certify to the court the transcript and record of the further proceedings. Such new or modified findings of fact shall likewise be conclusive if supported by substantial evidence.

(3) The court shall have jurisdiction to affirm the action of the Commissioner or to set it aside, in whole or in part. The judgment of the court shall be subject to review by the Supreme Court of the United States upon certiorari or certification as provided in Title 28, section 1254. (Pub. L. 89–329, title IV, § 415D, as added Pub. L. 92–318, title I, § 131(b)(1), June 23, 1972, 86 Stat. 257.)

EFFECTIVE DATE

Section effective after June 30, 1972, see section 131(b)(2) of Pub. L. 92–318, set out as a note under section 1070 of this title.

Subpart 4—Special Programs for Students From Disadvantaged Backgrounds

SUBPART REFERRED TO IN OTHER SECTIONS

This subpart is referred to in section 1070 of this title.

§ 1070d. Program authorization.

(a) Authority of Commissioner.

The Commissioner shall, in accordance with the provisions of this subpart, carry out a program designed to identify qualified students from low-income families, to prepare them for a program of post-secondary education, and to provide special services for such students who are pursuing programs of post-secondary education.

(b) Authorization of appropriations.

For the purpose of enabling the Commissioner to carry out this subpart, there are authorized to be appropriated $100,000,000 for the fiscal year ending June 30, 1973, and for each of the succeeding fiscal years ending prior to July 1, 1975. (Pub. L. 89–329, title IV, § 417A, as added Pub. L. 92–318, title I, § 131(b)(1), June 23, 1972, 86 Stat. 258).

EFFECTIVE DATE

Section effective after June 30, 1972, see section 131(b)(2) of Pub. L. 92–318, set out as a note under section 1070 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1070d–1 of this title.

§ 1070d–1. Authorized activities.

(a) Grants and contracts, authorization.

The Commissioner is authorized (without regard to section 5 of Title 41) to make grants to, and contracts with, institutions of higher education, including institutions with vocational and career education programs, combinations of such institutions,

public and private agencies and organizations (including professional and scholarly associations), and, in exceptional cases, secondary schools and secondary vocational schools, for planning, developing, or carrying out within the States one or more of the services described in section 1070d(a) of this title.

(b) Talent Search; Upward Bound; Special Services for Disadvantaged Students; Educational Opportunity Centers.

Services provided through grants and contracts under this subpart shall be specifically designed to assist in enabling youths from low-income families who have academic potential, but who may lack adequate secondary school preparation or who may be physically handicapped, to enter, continue, or resume a program of postsecondary education, including—

(1) programs, to be known as "Talent Search", designed to—

(A) identify qualified youths of financial or cultural need with an exceptional potential for postsecondary educational training and encourage them to complete secondary school and undertake postsecondary educational training,

(B) publicize existing forms of student financial aid, including aid furnished under this subchapter, and

(C) encourage secondary-school or college dropouts of demonstrated aptitude to reenter educational programs, including postsecondary-school programs;

(2) programs, to be known as "Upward Bound", (A) which are designed to generate skills and motivation necessary for success in education beyond high school and (B) in which enrollees from low-income backgrounds and with inadequate secondary-school preparation participate on a substantially full-time basis during all or part of the program;

(3) programs, to be known as "Special Services for Disadvantaged Students", of remedial and other special services for students with academic potential (A) who are enrolled or accepted for enrollment at the institution which is the beneficiary of the grant or contract, and (B) who (i), by reason of deprived educational, cultural, or economic background, or physical handicap, are in need of such services to assist them to initiate, continue, or resume their postsecondary education, or (ii) by reason of limited English-speaking ability, are in need of bilingual educational teaching, guidance, and counseling in order to enable them to pursue a post-secondary education; and

(4) a program of paying up to 75 per centum of the cost of establishing and operating Educational Opportunity Centers which—

(A) serve areas with major concentrations of low-income populations by providing, in coordination with other applicable programs and services—

(i) information with respect to financial and academic assistance available for persons in such areas desiring to pursue a program of postsecondary education;

(ii) assistance to such persons in applying for admission to institutions, at which a program of postsecondary education is offered, including preparing necessary applications for use by admission and financial aid officers; and

(iii) counseling services and tutorial and other necessary assistance to such persons while attending such institutions; and

(B) serve as recruiting and counseling pools to coordinate resources and staff efforts of institutions of higher education and of other institutions offering programs of postsecondary education, in admitting educationally disadvantaged persons.

The portion of the cost of any project assisted under clause (4) in the preceding sentence which is borne by the applicant shall represent an increase in expenditure by such applicant for the purposes of such project.

(c) Enrollees; stipend; limitation.

Enrollees who are participating on an essentially full-time basis in one or more services being provided under this section may be paid stipends, but not in excess of $30 per month except in exceptional cases as determined by the Commissioner.

(d) English language instruction.

Recipients of grants or contracts for the purposes of clause (3)(ii) of subsection (b) of this section shall include in their curriculum a program of English language instruction for students of limited English-speaking ability. (Pub. L. 89–329, title IV, § 417B, as added Pub. L. 92–318, title I, § 131(b)(1), June 23, 1972, 86 Stat. 258, and amended Pub. L. 93–380, title VIII, § 833(a), Aug. 21, 1974, 88 Stat. 603.)

AMENDMENTS

1974—Subsec. (b)(3)(B). Pub. L. 93–380, § 833(a)(1), designated existing provisions as item (i) and added item (ii).

Subsec. (d). Pub. L. 93–380, § 833(a)(2), added subsec. (d).

EFFECTIVE DATE OF 1974 AMENDMENT

Section 833(b) of Pub. L. 93–380 provided that: "The amendments made by this section [amending subsec. (b)(3)(B) and enacting subsec. (d) of this section] shall be effective upon the enactment of this Act [Aug. 21, 1974]."

EFFECTIVE DATE

Section effective after June 30, 1972, see section 131(b)(2) of Pub. L. 92–318, set out as a note under section 1070 of this title.

Subpart 5.—Assistance to Institutions of Higher Education

SUBPART REFERRED TO IN OTHER SECTIONS

This subpart is referred to in sections 1070, 1088 of this title.

§ 1070e. Payments to institutions of higher education.

(a) Each institution of higher education shall be entitled for each fiscal year to a cost-of-education payment in accordance with the provisions of this section.

(b)(1) The amount of the cost-of-education payment to which an institution shall be entitled under this section for a fiscal year shall be, subject to subsection (d) of this section, the amount determined under paragraph (2)(A) plus the amount determined under paragraph (2)(B).

(2) (A) (i) The Commissioner shall determine the amount to which an institution is entitled under this subparagraph on the basis of the total number of undergraduate students who are in attendance at the institution and the number of students who are also recipients of basic grants under subpart 1, in accordance with the following table:

If the total number of students in attendance is—	The amount of the grant is—
Not over 1,000	$500 for each recipient.
Over 1,000 but not over 2,500	$500 for each of 100 recipients; plus $400 for each recipient in excess of 100.
If the total number of students in attendance is—	**The amount of the grant is—**
Over 2,500 but not over 5,000	$500 for each of 100 recipients; plus $400 for each of 150 recipients in excess of 100; plus $300 for each recipient in excess of 250.
Over 5,000 but not over 10,000	$500 for each 100 recipients; plus $400 for each of 150 recipients in excess of 100; plus $300 for each of 250 recipients in excess of 250; plus $200 for each recipient in excess of 500.
Over 10,000	$500 for each of the 100 recipients; plus $400 for each of 150 recipients in excess of 100; plus $300 for each of 250 recipients in excess of 250; plus $200 for each of 500 recipients in excess of 500; plus $100 for each recipient in excess of 1,000.

(ii) In any case where a recipient of a basic grant under subpart 1 attends an institution receiving a cost-of-education payment under this subpart on less than a full-time basis, the amount determined under this subparagraph with respect to that student shall be reduced in proportion to the degree to which that student is not attending on a full-time basis.

(iii) If during any period of any fiscal year the funds available for making payments on the basis of entitlements established under this subparagraph are insufficient to satisfy fully all such entitlements, the amount paid with respect to each such entitlement shall be ratably reduced. When additional funds become available for such purpose, the amount of payment from such additional funds shall be in proportion to the degree to which each such entitlement is unsatisfied by the payments made under the first sentence of this division.

(B) (i) The Commissioner shall determine with respect to each institution an amount equal to the appropriate per centum (specified on the table below) of the aggregate of—

(I) supplemental educational opportunity grants under subpart 2;

(II) work-study payments under sections 2751 to 2756a of Title 42; and

(III) loans to students under part D of this subchapter;

made for such year to students who are in attendance at such institution. The Commissioner shall determine such amounts on the basis of percentages of such aggregate, and the number of students in attendance at institutions during the most recent academic year ending prior to such fiscal year, in accordance with the following table:

If the number of students in attendance at the institution is—	The percentage of such aggregate shall be—
Not over 1,000	50 per centum.
Over 1,000 but not over 3,000	46 per centum.
Over 3,000 but not over 10,000	42 per centum.
Over 10,000	38 per centum.

(ii) If during any period of any fiscal year the funds available for making payments on the basis of entitlements established under this subparagraph are insufficient to satisfy fully all such entitlements, the amount paid with respect to each such entitlement shall be ratably reduced. When additional funds become available for such purpose, the amount of payment from such additional funds shall be in proportion to the degree to which each such entitlement is unsatisfied by the payments made under the first sentence of this division.

(3) (A) In determining the number of students in attendance at institutions of higher education under this subsection, the Commissioner shall compute the full-time equivalent of part-time students.

(B) The Commissioner shall make a separate determination of the number of students in attendance at an institution of higher education and the number of recipients of basic grants at any such institution at each branch or separate campus of that institution located in a different community from the principal campus of that institution pursuant to criteria established by him.

c) 1)[1] An institution of higher education may receive a cost-of-education payment in accordance with this section only upon application therefor. An application under this section shall be submitted at such time or times, in such manner, and containing such information as the Commissioner determines necessary to carry out his functions under this subchapter, and shall—

(A) set forth such policies, assurances, and procedures as will insure that—

(i) the funds received by the institution under this section will be used solely to defray instructional expenses in academically related programs of the applicant;

(ii) the funds received by the institution under this section will not be used for a school or department of divinity or for any religious worship or sectarian activity;

(iii) the applicant will expend, during the academic year for which a payment is sought, for all academically related programs of the institution, an amount equal to at least the average amount expended during the three years preceding the year for which the grant is sought; and

(iv) the applicant will submit to the Commissioner such reports as the Commissioner may require by regulation; and

(B) contain such other statement of policies, assurances, and procedures as the Commissioner may require by regulation in order to protect the financial interests of the United States.

[1] Section enacted without a subsec. (c) (2).

(d) (1) The Commissioner shall pay to each institution of higher education for each fiscal year the amount to which it is entitled under this section.

(2) Of the total sums appropriated to make payments on the basis of entitlements established under this section and on the basis of entitlements established under part F of subchapter IX of this chapter—

(A) 45 per centum shall be available for making payments on the basis of entitlements established under paragraph (2) (A) of subsection (a) of this section;

(B) 45 per centum shall be available for making payments on the basis of entitlements established under paragraph (2) (B) of subsection (a) of this section; and

(C) 10 per centum shall be available for making payments on the basis of entitlements established under part F of subchapter IX of this chapter.

(3) No payments on the basis of entitlements established under paragraph (2) (A) of subsection (a) of this section may be made during any fiscal year for which the appropriations for making grants under subpart 1 does not equal at least 50 per centum of the appropriation necessary for satisfying the total of all entitlements established under such subpart. In no event shall, during any fiscal year, the aggregate of the payments to which this paragraph applies exceed that percentage of the total entitlements established under such paragraph (2) (A) which equals the percentage of the total entitlements established under subpart 1 which are satisfied by appropriations for such purpose for that fiscal year. (Pub. L. 89–329, title IV, § 419, as added Pub. L. 92–318, title X, § 1001(a), June 23, 1972, 86 Stat. 375.)

EMERGENCY ASSISTANCE FOR INSTITUTIONS OF HIGHER EDUCATION

Section 122 of Pub. L. 92–318 provided that:

"(a) (1) The Congress hereby finds and declares that—

"(A) the Nation's institutions of higher education constitute a national resource which significantly contributes to the security, general welfare, and economy of the United States;

"(B) considerable evidence has been advanced which indicates that many institutions of higher education are in financial distress resulting from many causes, including, among others, effects on the part of such institutions to increase enrollments, to improve the quality of education and training, and to enlarge educational opportunities; and

"(C) various proposals have been presented to the Congress, in response to such condition of financial distress, for providing financial assistance to the Nation's institutions of higher education but, except for that necessary to justify payments provided for reimbursement for part of the cost of instruction as provided in title X of this Act [enacting sections 1070e, 1070e–1, 1134s and amending sections 1070(a) (3)–(5), (b), 1088(b) (1) of this title, and enacting note provisions hereunder], insufficient information is available on the basis of which the Congress can determine, with any degree of certainty, the nature and causes of such financial distress or the most appropriate means with which present and future conditions of financial distress may be dealt.

"(2) It is the purpose of this section to provide to institutions of higher education, which are determined in accordance with this section to be in serious financial distress, interim emergency assistance to enable them to determine the nature and causes of such distress and the means by which such distress may be alleviated, and to improve their capabilities for dealing with financial problems using, to the extent appropriate, assistance authorized under the Higher Education Act of 1965 [this chapter] and all other sources of financial assistance.

"(b) (1) There is authorized to be appropriated for the period beginning with the date of enactment of this Act [June 23, 1972], and ending June 30, 1974, $40,000,000 for the purpose of making grants under this section. Sums so appropriated shall remain available for obligation and expenditure until expended.

"(2) (A) The Commissioner is authorized to make grants to institutions of higher education which are in serious financial distress, as such term is defined in regulations of the Commissioner in accordance with the provisions of this section.

"(B) A grant under this subsection may be made only upon application therefor to the Commissioner. Such applications shall be submitted at such time, in such form, and containing such information, assurances, policies, and procedures as the Commissioner may require in order to enable him to carry out his functions under this section. The Commissioner shall not approve any such application unless he finds that—

"(i) in the case of a public institution of higher education, the institution has submitted its applicaton for emergency assistance under this subsection to the appropriate State agency, as provided by the law of the State in which it is located and in accordance with regulations of the Commissioner, if any such agency exists with respect to such State, and such State agency has made a finding, in accordance with criteria established by the Commissioner, that such institution is in serious financial distress and (I) is in need of financial assistance under this section to continue its operation, or (II) will have to discontinue or substantially curtail its academic programs to the detriment of the quality of education available to its students;

"(ii) in the case of a nonpublic institution of higher education, the institution either has complied with the procedure set forth in clause (i) for public institutions, or has submitted an application directly to the Commissioner and the Commissioner has determined that the institution meets the condition set forth in either clause (i) (I) or (i) (II), and has submitted a copy to the appropriate State agency, as determined under the law of the State in which it is located and in accordance with regulations of the Commissioner, for comment;

"(iii) such institution has developed, adopted, and submitted a plan which the Commissioner determines provides reasonable assurance that, if the institution receives the grant for which it is applying such institution will be able, during and after the period covered by such grant, to continue the educational services, programs, and activities with respect to which such grant is sought;

"(iv) such institution is making a major contribution to the overall higher educational system of the area of the State in which it is located, or of the Nation; and

"(v) such institution has included in such application such policies and procedures for the use of funds received under the grant as will insure that such funds will not be used for a school or department of divinity or for any religious worship or sectarian activity, and as will insure that such funds will be solely used for the purposes for which the grant is made.

"(C) An application shall be approved under this subsection only if it includes such information, terms, and conditions as the Commissioner finds necessary and reasonable to enable him to carry out his functions under this section, and as he determines will be in the financial interest of the United States, and the applicant agrees—

"(i) to disclose such financial information as the Commissioner determines to be necessary to determine the sources or causes of its financial distress and other information relating to its use of its financial resources;

"(ii) to conduct a comprehensive cost analysis study of its operation, including income-cost comparisons and

cost per credit hour of instruction for each department, in accordance with uniform standards prescribed by the Commissioner; and

"(iii) to consider, and either implement or give adequate reasons in writing for not doing so, any financial or operational reform recommended by the Commissioner for the improvement of its financial condition.

"(D) The Commissioner shall not approve an application for a grant under this section without first obtaining the advice and recommendations of a panel of specialists who are not regular, full-time employees of the Federal Government and who are competent to evaluate the applications as to the relative degree of financial distress of the applying institutions.

"(c) As used in this section—

"(1) the term 'institution of higher education' means an educational institution in any State which (A) admits as regular students only persons having a certificate of graduation from a school providing secondary education, or the recognized equivalent of such a certificate, (B) is legally authorized within such State to provide a program of education beyond secondary education, (C) has been in existence for at least five years prior to the date upon which it makes application under this section, (D) provides an educational program for which it awards a bachelor's degree or provides not less than a two-year program which is acceptable for full credit towards such a degree, (E) is a public or other nonprofit institution, and (F) is accredited by a nationally recognized accrediting agency or association or, if not so accredited, (i) is an institution with respect to which the Commissioner has determined that there is satisfactory assurance considering the resources available to the institution, the period of time, if any, during which it has operated, the effort it is making to meet accreditation standards, and the purpose for which this determination is being made, that the institution will meet the accreditation standards of such an agency or association within a reasonable time, or (ii) is an institution whose credits are accepted, on transfer, by not less than three institutions which are so accredited, for credit on the same basis as if transferred from an institution which is accredited, and, for the purpose of this clause, the Commissioner shall publish a list of nationally recognized accrediting agencies or associations which he determines to be reliable authority as to the quality of training offered;

"(2) the term 'State' includes the fifty States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, and the Virgin Islands; and

"(3) the term 'school or department of divinity' means an institution or a department or a branch of an institution the program of instruction of which is designed for the education of students (A) to prepare them to become ministers of religion or to enter upon some other religious vocation (or to provide continuing training for any such vocation), or (B) to prepare them to teach theological subjects."

PAYMENTS LIMITATION

Section 1001(d) of Pub. L. 92–318 provided that: "The total of the payments made under subpart 5 of part A of title IV, of the Higher Education Act of 1965 [this subpart] (except section 420) [section 1070e–1 of this title] and under part F of title IX of such Act [part F of subchapter VIII of this chapter] may not exceed $1,000,000,000 during any fiscal year."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1070e–1 of this title.

§ 1070e–1. Payments to institutions of higher education.

(a)(1) During the period beginning July 1, 1972, and ending June 30, 1975, each institution of higher education shall be entitled to a payment under, and in accordance with, this section during any fiscal year if—

(A) the number of persons who are veterans receiving vocational rehabilitation under chapter 31 of Title 38 or veterans receiving educational assistance under chapter 34 of such title, and who are in attendance as undergraduate students at such institution during any academic year, equals at least—

(i) 110 per centum of the number of such recipients who were in attendance at such institution during the preceding academic year, or

(ii) 10 per centum of the total number of undergraduate students in attendance at such institution during such academic year and if such number does not constitute a per centum of such undergraduate students which is less than such per centum for the preceding academic year; and

(B) the number of such persons is at least 25.

(2) During the period specified in paragraph (1), each institution which has qualified for a payment under this section for any year shall be entitled during the succeeding year, notwithstanding paragraph (1), to a payment under and in accordance with this section, if the number of persons referred to in such paragraph (1) equals at least the number of such persons who were in attendance at such institution during the preceding academic year, or equals at least the minimum number of such persons necessary to establish eligibility to entitlement under paragraph (1) during the preceding academic year, whichever is less. Each institution which is entitled to a payment for any fiscal year by reason of the preceding sentence shall be deemed, for the purposes of any such year succeeding the year for which it is so entitled, to have been entitled to a payment under paragraph (1) during the preceding fiscal year.

(b)(1) The amount of the payment to which any institution shall be entitled under this section for any fiscal year shall be—

(A) $300 for each person who is a veteran receiving vocational rehabilitation under chapter 31 of Title 38, or a veteran receiving educational assistance under chapter 34 of such Title 38, and who is in attendance at such institution as an undergraduate student during such year; and

(B) in addition, $150, except in the case of persons on behalf of whom the institution has received a payment in excess of $150 under section 1070e of this title, for each person who has been the recipient of educational assistance under subchapter V or subchapter VI of chapter 34 of such Title 38, and who is in attendance at such institution as an undergraduate student during such year.

(2) In any case where a person on behalf of whom a payment is made under this section attends an institution on less than a full-time basis, the amount of the payment on behalf of that person shall be reduced in proportion to the degree to which that person is not attending on a full-time basis.

(c)(1) An institution of higher education shall be eligible to receive the payment to which it is entitled under this section only if it makes application therefor to the Commissioner. An application under this section shall be submitted at such time

or times, in such manner, in such form, and containing such information as the Commissioner determines necessary to carry out his functions under this subchapter, and shall—

(A) meet the requirements set forth in clauses (A) and (B) of section 1070e(c)(1) of this title:

(B) set forth such plans, policies, assurances, and procedures as will insure that the applicant will make an adequate effort—

(i) to maintain a full-time office of veterans' affairs which has responsibility for veterans' outreach, recruitment, and special education programs, including the provision of educational, vocational, and personal counseling for veterans,

(ii) to carry out programs designed to prepare educationally disadvantaged veterans for postsecondary education (I) under subchapter V of chapter 34 of Title 38, and (II) in the case of any institution located near a military installation, under subchapter VI of such chapter 34,

(iii) to carry out active outreach, recruiting, and counseling activities through the use of funds available under federally assisted work-study programs, and

(iv) to carry out an active tutorial assistance program (including dissemination of information regarding such program) in order to make maximum use of the benefits available under section 1692 of such Title 38,

except that an institution with less than 2,500 students in attendance (I) which the Commissioner determines, in accordance with regulations jointly prescribed by the Commissioner and the Administrator of Veterans' Affairs (hereinafter referred to as the "Administrator"), cannot feasibly itself carry out any or all of the programs set forth in subclauses (i) through (iv) of this clause, may carry out such program or programs through a consortium agreement with one or more other institutions of higher education, and (ii) shall be required to carry out such programs only to the extent that the Commissioner determines, in accordance with regulations jointly prescribed by the Commissioner and the Administrator, is appropriate in terms of the number of veterans in attendance at such institution. The adequacy of efforts to meet the requirements of clause (B) in the preceding sentence shall be determined by the Commissioner, based upon the recommendation of the Administrator, in accordance with criteria established in regulations jointly prescribed by the Commissioner and the Administrator.

(2) The Commissioner shall not approve an application under this subsection unless he determines that the applicant will implement the requirements of clause (B) of paragraph (1) within the first academic year during which it receives a payment under this section.

(d)(1) The Commissioner shall pay to each institution of higher education which has had an application approved under subsection (c) of this section the amount to which it is entitled under this section. Payments under this subsection shall be made in not less than three installments during each academic year and shall be based on the actual number of persons on behalf of whom such payments are made in attendance at the institution at the time of the payment.

(2) The maximum amount of payments to any institution of higher education, or any branch thereof which is located in a community which is different from that in which the parent institution thereof is located, in any fiscal year, shall be $135,000. In making payments under this section for any fiscal year, the Commissioner shall apportion the appropriation for making such payments, from funds which become available as a result of the limitation on payments set forth in the preceding sentence, in such a manner as will result in the receipt by each institution which is eligible for a payment under this section of first $9,000 (or the amount of its entitlement for that fiscal year, whichever is less) and then additional amounts up to the limitation set forth in the preceding sentence.

(e) Not less than 75 per centum of the amounts paid to any institution under subsection (d) of this section in any fiscal year shall be used to implement the requirement of clause (B)(i) of paragraph (1) of subsection (c) of this section, and, to the extent that such funds remain after implementing such requirements, funds limited by such 75 per centum requirement shall be used for implementing the requirements of clauses (B) (ii), (iii), and (iv) of such paragraph (1), except that the Commissioner may, in accordance with criteria established in regulations jointly prescribed by the Commissioner with the Administrator, waive the requirement of this subsection to the extent that he finds that such institution is adequately carrying out all such requirements without the necessity for such application of such amount of the payments received under this subsection. (Pub. L. 89–329, title IV, § 420, as added Pub. L. 92–318, title X, § 1001(a), June 23, 1972, 86 Stat. 378, and amended Pub. L. 93–380, title VIII, § 834(a), Aug. 21, 1974, 88 Stat. 604.)

AMENDMENTS

1974—Subsec. (a)(1). Pub. L. 93–380, § 834(a)(1), designated existing provisions as par. (1)(A)(i) and added par. (1)(A)(ii) and (B).

Subsec. (a)(2). Pub. L. 93–380, § 834(a)(2), inserted provision in first sentence respecting payments to institutions of higher education reading "or equals at least the minimum number of such persons necessary to establish eligibility to entitlement under paragraph (1) during the preceding academic year, whichever is less".

Subsec. (d). Pub. L. 93–380, § 834(a)(3), designated existing provisions as par. (1) and added par. (2).

Subsec. (e). Pub. L. 93–380, § 834(a)(4), substituted introductory text "Not less than 75 per centum of the amounts paid to any institution under subsection (d) of this section in any fiscal year shall be used to implement the requirement of clause (B)(i) of paragraph (1) of subsection (c) of this section, and, to the extent that such funds remain after implementing such requirements, funds limited by such 75 per centum requirement shall be used for implementing the requirements of clauses (B) (ii), (iii), and (iv) of such paragraph (1)," for "No less than 50 per centum of the amount of payments received by any institution under subsection (d) of this section in each academic year shall be applied by such institution to implement the requirement of subclause (i) of clause (B) of paragraph (1) of subsection (c) of this section, and, to the extent that such 50 per centum amount is not exhausted, the requirements of subclauses (ii), (iii), and (iv) of such clause,".

EFFECTIVE DATE OF 1974 AMENDMENT

Section 834(b) of Pub. L. 93–380 provided that: "The amendments made by this section [to subsecs. (a) (1),

(2), (d), and (e) of this section] shall take effect on the date of the enactment of this Act [Aug. 21, 1974]."

PAYMENTS LIMITATION

Total of payments under this part, except this section, not to exceed $1,000,000,000 during any fiscal year, see section 1001(d) of Pub. L. 92–318, set out as a note under section 1070e of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 38 section 243.

PART B.—FEDERAL, STATE, AND PRIVATE PROGRAMS OF LOW-INTEREST INSURED LOANS TO STUDENTS IN INSTITUTIONS OF HIGHER EDUCATION

PART REFERRED TO IN OTHER SECTIONS

This part is referred to in sections 1088, 1221 of this title; title 38 section 1798.

PART REFERRED TO IN D.C. CODE

This part is referred to in section 1–265 of the District of Columbia Code.

§ 1074. Total principal amount of new loans under Federal loan insurance program; duration of program; assignment and reassignment of Federal loan insurance quotas.

(a) The total principal amount of new loans made and installments paid pursuant to lines of credit (as defined in section 1085 of this title) to students covered by Federal loan insurance under this part shall not exceed $1,400,000,000 for the fiscal year ending June 30, 1972, $1,600,000,000 for the fiscal year ending June 30, 1973, $1,800,000,000 for the fiscal year ending June 30, 1974, and $2,000,000,000 for the fiscal year ending June 30, 1975. Thereafter, Federal loan insurance pursuant to this part may be granted only for loans made (or for loan installments paid pursuant to lines of credit) to enable students, who have obtained prior loans insured under this part, to continue or complete their educational program; but no insurance may be granted for any loan made or installment paid after June 30, 1979.

* * * * *

(As amended Pub. L. 92–318, title I, § 132(a), June 23, 1972, 86 Stat. 261.)

AMENDMENTS

1972—Subsec. (a). Pub. L. 92–318 authorized appropriations of $1,400,000,000; $1,600,000,000; $1,800,000,000; and $2,000,000,000 for fiscal years ending June 30, 1972, through 1975, and deleted appropriations authorization of $700,000,000; $1,000,000,000; $1,400,000,000; $1,400,000,000; $1,400,000,000; $1,400,000,000; and $1,400,000,000 for fiscal years ending June 30, 1966, through 1971, and substituted "June 30, 1979" for "June 30, 1975", respectively.

EFFECTIVE DATE OF 1972 AMENDMENT

Section 132(d) of Pub. L. 92–318 provided that: "The amendments made by this section [to subsec. (a) of this section and sections 1078(a)(4) and 1083(c) of this title] shall be effective after June 30, 1971."

SAVINGS PROVISION

Section 132F of Pub. L. 92–318 provided that: "The amendments made by sections 132 [to sections 1074(a), 1078(a)(4), and 1083(c) of this title], 132A [to sections 1075(a) and 1078(b)(1)(A)], 132B [to sections 1075(b), 1077(a)(2)(D), and 1080(a) of this title], 132C [to sections 1077(a)(1) and 1078(a)(1), (b)(1)(H) of this title], and 132D [to section 1087 of this title], shall not be effective with respect to any loan made after the date of enactment of this Act [June 23, 1972], in whole or in part, to consolidate or convert a loan made or contracted for prior to its effective date."

GUARANTEED STUDENT LOAN PROGRAM; SUSPENSION PERIOD (AUG. 19, 1972—MAR. 1, 1973) FOR EFFECTIVENESS OF CERTAIN AMENDMENTS BY EDUCATION AMENDMENTS OF JUNE 23, 1972

Pub. L. 92–391, Aug. 19, 1972, 86 Stat. 563, provided: "That the effectiveness of the amendments made by sections 132A [amending sections 1075(a) and 1078(b)(1)(A) and enacting provisions set out as a note under section 1075 of this title], 132B [amending sections 1075(b), 1077(a)(2)(D), and 1080(a) of this title], 132C [amending sections 1077(a)(1) and 1078(a)(1), (b)(1)(H) of this title], 132D [amending sections 1078(b)(1)(L), (c)(1), (e), 1084 and 1087 of this title], 132E [enacting section 1087–1 and provisions set out as note under section 1087–1 of this title], and 132F [enacting Savings Provision note set out under this section] of the Education Amendments of 1972 is hereby suspended for the period beginning with the date of enactment of part B of title IV of the Higher Education Act of 1965 [sections 1075(a), (b), 1077(a)(1), (2)(D), 1078(b)(1)(A), (H), (L), (c)(1), (e), 1080(a), 1084, and 1087 of this title], as in effect immediately prior to the enactment of such amendments [June 23, 1972], shall be effective during such period, except that (1) nothing in this joint resolution shall be deemed to affect the validity of any action taken or obligation undertaken under such part prior to the enactment of this joint resolution [Aug. 19, 1972], and (2) section 438(b) of the Higher Education Act of 1965 [section 1087–1(b) of this title] shall continue to be in effect during such period. Section 431(b) of the General Education Provisions Act [section 1232(b) of this title] and section 495 of the Higher Education Act of 1965 [section 1088d of this title] shall not be applicable in the case of administrative action taken to effectuate this joint resolution."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1079 of this title.

§ 1075. Federal loan insurance limitations.

(a) Maximum annual insurable loan; maximum aggregate insured unpaid principal amount.

The total of the loans made to a student in any academic year or its equivalent (as determined under regulations of the Commissioner) which may be covered by Federal loan insurance under this part may not exceed $2,500, except in cases where the Commissioner determines, pursuant to regulations prescribed by him, that a higher amount is warranted in order to carry out the purposes of this part with respect to students engaged in specialized training requiring exceptionally high costs of education. The aggregate insured unpaid princpal[1] amount of all such insured loans made to any student shall not at any time exceed $7,500 in the case of any student who has not successfully completed a program of undergraduate education, and $10,000 in the case of any graduate or professional student (as defined by regulations of the Commissioner and including any loans which are insured by the Commissioner under this part or by a State or nonprofit institution or organization with which the Commissioner has an agreement under section 1078(b) of this title made to such person before he became a graduate or professional student). The annual insurable limit per student shall not be deemed to be exceeded by a line of credit under which actual payments by the lender to the borrower will not be made in any year in excess of the annual limit.

(b) Insurance liability limitations.

The insurance liability on any loan insured by the Commissioner under this part shall be 100 per centum of the unpaid balance of the principal

[1] So in original.

amount of the loan plus interest. The full faith and credit of the United States is pledged to the payment of all amounts which may be required to be paid under the provisions of section 1080 or 1087 of this title. (As amended Pub. L. 92–318, title I, §§ 132A(a), 132B(a), June 23, 1972, 86 Stat. 261, 262.)

AMENDMENTS

1972—Subsec. (a). Pub. L. 92–318, § 132A(a), increased limitation on insurable loan from $1,500 to $2,500, except where a higher amount is warranted for students engaged in specialized training requiring exceptionally high costs of education and made the $7,500 limitation applicable where student has not successfully completed a program of undergraduate education, and $10,000 where graduate or professional student and including insured loans made before person became a graduate or professional student, respectively.

Subsec. (b). Pub. L. 92–318, § 132B(a), included liability for interest and the pledging of Federal credit.

EFFECTIVE DATE OF 1972 AMENDMENT

Section 132A(c) of Pub. L. 92–318 provided that: "The amendments made by subsections (a) and (b) [to subsec. (a) of this section and section 1078(b)(1)(A) of this title] shall be effective with respect to loans made after the enactment of this Act [June 23, 1972], and insured by the Commissioner under part B of title IV of the Higher Education Act of 1965 [section 1071 et seq. of this title], or by a State or nonprofit private institution or organization with which the Commissioner has an agreement under section 428(b) of such part [section 1078(b) of this title]."

SAVINGS PROVISION

Amendment by Pub. L. 92–318 not effective with respect to any loan made after June 23, 1972, in whole or in part, to consolidate or convert a loan made or contracted for prior to its effective date, see section 132F of Pub. L. 92–318, set out as a note under section 1074 of this title.

GUARANTEED STUDENT LOAN PROGRAM; SUSPENSION PERIOD (AUG. 19, 1972—MAR. 1, 1973) FOR EFFECTIVENESS OF CERTAIN AMENDMENTS BY EDUCATION AMENDMENTS OF JUNE 23, 1972

Amendment of subsecs. (a) and (b) of this section by sections 132A and 132B of Pub. L. 92–318 suspended for period beginning Aug. 19, 1972, and ending Mar. 1, 1973, such subsecs. (a) and (b) as in effect prior to June 23, 1972, as effective during the suspension period, and any action taken or obligation undertaken under amended provisions prior to Aug. 19, 1972, as unaffected, see Pub. L. 92–391, Aug. 19, 1972, 86 Stat. 563, set out as a note under section 1074 of this title.

§ 1077. Conditions for Federal loan insurance.

(a) Student eligibility; terms of loans.

A loan by an eligible lender shall be insurable by the Commission under the provisions of this part only if—

(1) made to a student who (A) has been accepted for enrollment at an eligible institution or, in the case of a student already attending such institution, is in good standing there as determined by the institution, and (B) is carrying at least one-half of the normal full-time workload as determined by the institution; and

(2) evidenced by a note or other written agreement which—

* * * * *

(D) provides for interest on the unpaid principal balance of the loan at a yearly rate, not exceeding the applicable maximum rate prescribed and defined by the Secretary (within the limits set forth in subsection (b) of this section) on a national, regional, or other appropriate basis, which interest shall be payable in installments over the period of the loan except that, if provided in the note or other written agreement, any interest payable by the student may be deferred until not later than the date upon which repayment of the first installment of principal falls due, in which case interest that has so accrued during that period may be added on that date to the principal,

* * * * *

(As amended Pub. L. 92–318, title I, §§ 132B(b), 132C(c), June 23, 1972, 86 Stat. 262, 263.)

REFERENCES IN TEXT

Title VIII of the Economic Opportunity Act of 1964, referred to in subsec. (a)(2)(C), was repealed and is now covered by section 4951 et seq. of Title 42, The Public Health and Welfare.

AMENDMENTS

1972—Subsec. (a)(1). Pub. L. 92–318, § 132C(c), struck out cl. (C) condition for a loan to a student only where student has provided the lender with a statement of the institution which sets forth a schedule of the tuition and fees applicable to that student and its estimate of the cost of board and room for such a student.

Subsec. (a)(2)(D). Pub. L. 92–318, § 132B(b), struck out "(but without thereby increasing the insurance liability under this part)" after "date to the principal".

SAVINGS PROVISION

Amendment of subsec. (a)(1) and (2)(D) of this section by Pub. L. 92–318 not effective with respect to any loan made after June 23, 1972, in whole or in part, to consolidate or convert a loan made or contracted for prior to its effective date, see section 132F of Pub. L. 92–318, set out as a note under section 1074 of this title.

GUARANTEED STUDENT LOAN PROGRAM; SUSPENSION PERIOD (AUG. 19, 1972—MAR. 1, 1973) FOR EFFECTIVENESS OF CERTAIN AMENDMENTS BY EDUCATION AMENDMENTS OF JUNE 23, 1972

Amendment of subsec. (a)(1), (2)(D) of this section by sections 132B and 132C of Pub. L. 92–318 suspended for period beginning Aug. 19, 1972, and ending Mar. 1, 1973, such subsec. (a)(1), (2)(D) as in effect prior to June 23, 1972, as effective during the suspension period, and any action taken or obligation undertaken under amended provisions prior to Aug. 19, 1972, as unaffected, see Pub. L. 92–391, Aug. 19, 1972, 86 Stat. 563, set out as a note under section 1074 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1078, 1083 of this title.

§ 1078. Federal interest subsidy payments.

(a) Eligibility; amount; time and manner of payment; statements required by Commissioner from loan holders; prohibition against subsidizing loans made under title II of National Defense Education Act of 1958.

(1) Each student who has received a loan for study at an eligible institution—

(A) which is insured by the Commissioner under this part;

(B) which was made under a State student loan program (meeting criteria prescribed by the Commissioner), and which was contracted for, and paid to the student, within the period specified by paragraph (5); or

(C) which is insured under a program of a State or of a nonprofit private institution or organization which was contracted for, and paid to the student, within the period specified in paragraph (5), and which—

(i) in the case of a loan insured prior to July 1, 1967, was made by an eligible lender and is in-

sured under a program which meets the requirements of subparagraph (E) of subsection (b)(1) and provides that repayment of such loan shall be in installments beginning not earlier than sixty days after the student ceases to pursue a course of study (as described in subparagraph (D) of subsection (b)(1)) of this section at an eligible institution, or

(ii) in the case of a loan insured after June 30, 1967, is insured under a program covered by an agreement made pursuant to subsection (b) of this section,

shall be entitled to have paid on his behalf and for his account to the holder of the loan a portion of the interest on such loan at the time of execution of the note or written agreement evidencing such loan under circumstances described in paragraph (2) of this subsection.

(2)(A) Each student qualifying for a portion of an interest payment under paragraph (1) of this subsection shall—

(i) have provided to the lender a statement from the eligible institution, at which the student has been accepted for enrollment, or at which he is in attendance in good standing (as determined by such institution), which—

(I) sets forth such student's estimated costs of attendance, and

(II) sets forth such student's estimated financial assistance; and

(ii) meet the requirements of subparagraph (B).

(B) For the purposes of clause (ii) of subparagraph (A), a student shall qualify for a portion of an interest payment under paragraph (1) of this subsection if such student's adjusted family income—

(i) is less than $15,000, and—

(I) the amount of such loan would not cause the total amount of the student's loans insured by the Commissioner under this part or by a State or nonprofit private institution or organization which has an agreement under subsection (b) to exceed $2,000 in any academic year, or its equivalent, or

(II) the amount of such loan would cause the total amounts of the loans described in clause (I) of this subparagraph of that student to exceed $2,000 in any academic year or its equivalent, and the eligible institution has provided, with respect to the amount of such loans in excess of $2,000, the lender with a statement recommending the amount of such excess; or

(ii) is equal to or greater than $15,000, and the eligible institution has provided the lender with a statement evidencing a determination of need and recommending a loan in the amount of such need.

(C) For the purposes of paragraph (1) and this paragraph—

(i) a student's estimated cost of attendance means, for the period for which the loan is sought, the tuition and fees applicable to such student together with the institution's estimate of other expenses reasonably related to attendance at such institution, including, but not limited to, the cost of room and board, reasonable commuting costs, and costs for books;

(ii) a student's estimated financial assistance means, for the period for which the loan is sought, the amount of assistance such student will receive under parts A and D of this subchapter and sections 2751 to 2756a of Title 42, plus other scholarship, grant, or loan assistance;

(iii) the term "eligible institution" when used with respect to a student is the eligible institution at which the student has been accepted for enrollment or, in the case of a student who is in attendance at such an institution is in good standing (as determined by such institution);

(iv) the determination of need and the amount of a loan recommended by an eligible institution under subparagraph (B)(ii) and the amount of loans in excess of $2,000 recommended by an eligible institution under subparagraph (B)(i)(II) with respect to a student shall be determined by subtracting from the estimated cost of attendance at such institution the total of the expected family contribution with respect to such student (as determined by means other than one formulated by the Commissioner under subpart 1 of part A of this subchapter) plus any other resources or student financial assistance reasonably available to such student.

(D) In addition, the Commissioner shall pay an administrative cost allowance in the amount established by paragraph (3)(B) of this subsection with respect to loans to any student without regard to the borrower's need. For the purposes of this paragraph, the adjusted family income of a student shall be determined pursuant to regulations of the Commissioner in effect at the time of the execution of the note or written agreement evidencing the loan. Such regulations shall provide for taking into account such factors, including family size, as the Commissioner deems appropriate. In the absence of fraud by the lender, such determination of the need of a student under this paragraph shall be final insofar as it concerns the obligation of the Commissioner to pay the holder of a loan a portion of the interest on the loan.

(3)(A) The portion of the interest on a loan which a student is entitled to have paid on his behalf and for his account to the holder of the loan pursuant to paragraph (1) of this subsection shall be equal to the total amount of the interest on the unpaid principal amount of the loan which accrues prior to the beginning of the repayment period of the loan, or which accrues during a period in which principal need not be paid (whether or not such principal is in fact paid) by reason of a provision described in subsection (e) of this section or in section 1077(a)(2)(C) of this title; but such portion of the interest on a loan shall not exceed, for any period, the amount of the interest on that loan which is payable by the student after taking into consideration the amount of any interest on that loan which the student is entitled to have paid on his behalf for that period under any State or private loan insurance program. The holder of a loan with respect to which payments are required to be made under this section shall be deemed to have a contractual right, as against the United States, to receive from the Commissioner the portion of interest

which has been so determined and the administrative cost allowance payable under this subsection. The Commissioner shall pay this portion of the interest and administrative cost allowance to the holder of the loan on behalf of and for the account of the borrower at such times as may be specified in regulations in force when the applicable agreement entered into pursuant to subsection (b) of this section was made, or if the loan was made by a State or is insured under a program which is not covered by such an agreement, at such times as may be specified in regulations in force at the time the loan was paid to the student.

(B) If (i) a State student loan insurance program is covered by an agreement under subsection (b) of this section, (ii) a statute of such State limits the interest rate on loans insured by such program to a rate which is less than 7 per centum per annum on the unpaid principal balance, and (iii) the Commissioner determines that subsection (d) of this section does not make such statutory limitation inapplicable and that such statutory limitation threatens to impede the carrying out of the purposes of this part, then he may pay an administrative cost allowance to the holder of each loan which is insured under such program and which is made during the period beginning on the sixtieth day after October 16, 1968, and ending 120 days after the adjournment of such State's first regular legislative session which adjourns after January 1, 1969. Such administrative cost allowance shall be paid over the term of the loan in an amount per annum (determined by the Commissioner) which shall not exceed 1 per centum of the unpaid principal balance of the loan.

(4) Each holder of a loan with respect to which payments of interest or of administrative cost allowances are required to be made by the Commissioner shall submit to the Commissioner, at such time or times and in such manner as he may prescribe, statements containing such information as may be required by or pursuant to regulation for the purpose of enabling the Commissioner to determine the amount of the payment which he must make with respect to that loan.

(5) The period referred to in subparagraphs (B) and (C) of paragraph (1) of this subsection shall begin on November 8, 1965, and end at the close of June 30, 1975, except that, in the case of a loan made or insured under a student loan or loan insurance program to enable a student who has obtained a prior loan made or insured under such program to continue his educational program, such period shall end at the close of June 30, 1979.

(6) No payment may be made under this section with respect to the interest on a loan made from a student loan fund established under title II of the National Defense Education Act of 1958.

(7) Nothing in this chapter or any other Act shall be construed to prohibit or require unless otherwise specifically provided by law, a lender to evaluate the total financial situation of a student making application for a loan under this part, or to counsel a student with respect to any such loan, or to make a decision based on such evaluation and counseling with respect to the dollar amount of any such loan.

(b) Agreements with State and nonprofit private institutions for subsidy payments on loans insured under student loan insurance program of such State or institution; standards for student loan insurance program; required provisions of agreement.

(1) Any State or any nonprofit private institution or organization may enter into an agreement with the Commissioner for the purpose of entitling students who receive loans which are insured under a student loan insurance program of that State, institution, or organization to have made on their behalf the payments provided for in subsection (a) of this section if the Commissioner determines that the student loan insurance program—

(A) authorizes the insurance of not less than $1,000 nor more than $2,500 (except in those cases where the Commissioner determines, pursuant to regulations prescribed by him, that a higher amount is warranted in order to carry out the purposes of this part with respect to students engaged in specialized training requiring exceptionally high costs of education) in loans to any individual student in any academic year or its equivalent (as determined under regulations of the Commissioner), which limit shall not be deemed exceeded by a line of credit under which actual payments by the lender to the borrower will not be made in any such year in excess of such annual limit; and provides that the aggregate insured unpaid principal amount of all such insured loans made to any student shall not at any time exceed $7,500 in the case of any student who has successfully completed a program of undergraduate education, and $10,000 in the case of any graduate or professional student (as defined by regulations of the Commissioner and including any loans which are insured by the Commissioner under this part or by a State or nonprofit institution or organization with which the Commissioner has an agreement under this part made to such person before he became a graduate or professional student);

* * * * *

(H) provides that the benefits of the loan insurance program will not be denied any student who is eligible for interest benefits under subsection (a)(1) and (2) of this section except in the case of loans made by an instrumentality of a State or eligible institution;

* * * * *

(J) in the case of a State program, provides that such State program is administered by a single State agency, or by one or more nonprofit private institutions or organizations under the supervision of a single State agency;

(K) provides that the total of the payments by a borrower during any year of any repayment period with respect to the aggregate amount of all loans to that borrower which are (i) insured under this part, or (ii) made by a State or the Commissioner under subsection (a)(1)(B) of this section or section 1083 of this title, respectively, shall not be less than $360 or the balance of all such loans (together with interest thereon), whichever amount is less; and

(L) provides that periodic installments of principal need not be paid, but interest shall accrue and be paid during any period (i) during which the borrower is pursuing a full-time course of study at an eligible institution, (ii) not in excess of three years during which the borrower is a member of the Armed Forces of the United States, (iii) not in excess of three years during which the borrower is in service as a volunteer under the Peace Corps Act, or (iv) not in excess of three years during which the borrower is in service as a full-time volunteer under title VIII of the Economic Opportunity Act of 1964.

* * * * *

(c) Federal guaranty of student loans insured under non-Federal programs; provisions of guaranty agreement; reports; recordkeeping; definitions.

(1) The Commissioner may enter into a guaranty agreement with any State or any nonprofit private institution or organization with which he has an agreement pursuant to subsection (b) of this section, whereby the Commissioner shall undertake to reimburse it, under such terms and conditions as he may establish, in an amount equal to 80 per centum of the amount expended by it in discharge of its insurance obligation, incurred under its loan insurance program, with respect to losses (resulting from the default of the student borrower) on the unpaid balance of the principal (other than interest added to principal) of any insured loan with respect to which a portion of the interest (A) is payable by the Commissioner under subsection (a) of this section, or (B) would be payable under such subsection but for the borrower's lack of need.

* * * * *

(e) Repealed. Pub. L. 92–318, title I, § 132D(c), June 23, 1972, 86 Stat. 264.

(As amended Pub. L. 92–318, title I, §§ 132(b), 132A(b), 132C(a), (b), 132D(b)–(d), June 23, 1972, 86 Stat. 261–264; Pub. L. 93–269, §§ 2–4, Apr. 18, 1974, 88 Stat. 87, 89.)

REFERENCES IN TEXT

Title II of the National Defense Education Act of 1958, referred to in subsec. (a)(6), is classified to sections 421 et seq. of this title.

This chapter, referred to in subsec. (a)(7), was, in the original, "this Act", meaning Pub. L. 89–329. For complete classification of Pub. L. 89–329 to this Code, see Short Title note under section 1001 of this title.

Peace Corps Act, referred to in subsec. (b)(1)(L), is classified to chapter 34 (§ 2501 et seq.) of Title 22, Foreign Relations and Intercourse.

Title VIII of the Economic Opportunity Act of 1964, referred to in subsec. (b)(1)(L), was repealed and is now covered by section 4951 et seq. of Title 42, The Public Health and Welfare.

AMENDMENTS

1974—Subsec. (a)(1). Pub. L. 93–269, § 2, substituted references to par. (5) for references to par. (4) in subpars. (B) and (C), substituted "at the time of execution of the note or written agreement evidencing such loan under circumstances described in paragraph (2)." for " (in accordance with paragraph (2) of this subsection) only if at the time of execution of the note or written agreement evidencing such loan his adjusted family income is—", and struck out provisions relating to interest subsidies to students with adjusted family incomes of less than $15,000, and on the basis of a need test to students with adjusted family income of more than $15,000. See subsec. (a)(2).

Subsec. (a)(2). Pub. L. 93–269, § 2, added subsec. (a)(2).

Subsecs. (a)(3) to (a)(6). Pub. L. 93–269, § 2, redesignated former subsecs. (a)(2) to (a)(5) as subsecs. (a)(3) to (a)(6).

Subsec. (a)(7). Pub. L. 93–269, § 3, added subsec. (a)(7).

Subsec. (b)(1)(H). Pub. L. 93–269, § 4, substituted "who is eligible for interest benefits under subsection (a)(1) and (2) of this section" for "who has been determined (pursuant to subsection (a)(1) of this section) to be in need of a loan".

1972—Subsec. (a)(1). Pub. L. 92–318, § 132C(a), provided for payment of interest on the loan in accordance with par. (2) of subsec. (a), designated existing provisions as item (I), added therein the alpha and beta clauses, and added item (II).

Subsec. (a)(4) Pub. L. 92–318, § 132(b), substituted "June 30, 1975" and "June 30, 1979" for "June 30, 1971" and "June 30, 1975."

Subsec. (b)(1)(A). Pub. L. 92–318, § 132A(b), increased limitation on insurable loan from $1,500 to $2,500, except where a higher amount is warranted for students engaged in specialized training requiring exceptionally high costs of education and made the $7,500 limitation applicable where student has not successfully completed a program of undergraduate education, and $10,000 where a graduate or professional student and including insured loans made before person became a graduate or professional student, respectively.

Subsec. (b)(1)(H). Pub. H. 92–318, § 132C(b), substituted "who has been determined (pursuant to subsection (a)(1) of this section) to be in need of a loan except in the case of loans made by an instrumentality of a State or eligible institution" for "because of his family income or lack of need if his adjusted family income at the time the note or written agreement is executed is less than $15,000 (as determined pursuant to the regulations of the Commissioner prescribed under subsection (a)(1) of this section)".

Subsec. (b)(1)(L). Pub. L. 92–318, § 132D(b), added cl. (L).

Subsec. (c)(1). Pub. L. 92–318, § 132D(d), substituted "the borrower's lack of need" for "adjusted family income of the borrower."

Subsec. (e). Pub. L. 92–318, § 132D(c), repealed provisions for deferment of repayment of non-Federally insured loans during attendance at eligible institution, or military or volunteer service and for Federal payment of interest accruing during such attendance or service, now covered by section 1078(b)(1)(L) of this title.

EFFECTIVE DATE OF 1974 AMENDMENT

Section 6 of Pub. L. 93–269 provided that:" The amendments made by section 2 [amending subsec. (a) of this section] shall be effective forty-five days after enactment of this Act [Apr. 18, 1974] and be applicable to a loan for which a guarantee commitment is made on or after that date."

EFFECTIVE DATE OF 1972 AMENDMENT

Amendment of subsec. (a)(4) of this section by Pub. L. 92–318 effective after June 30, 1971, see section 132(d) of Pub. L. 92–318, set out as a note under section 1074 of this title.

Amendment of subsec. (b)(1)(A) of this section effective with respect to loans made after June 23, 1972, and insured by Commissioner under section 1071 et seq. of this title or by a State or nonprofit institution or organization with which Commissioner has an agreement, see section 132A(c) of Pub. L. 92–318, set out as a note under section 1075 of this title.

SAVINGS PROVISION

Amendment of subsecs. (a)(1), (4) and (b)(1)(A), (H) of this section by Pub. L. 92–318 not effective with respect to any loan made after June 23, 1972, in whole or in part, to consolidate or convert a loan made or contracted for prior to its effective date, see section 132F of Pub. L. 92–318, set out as a note under section 1074 of this title.

GUARANTEED STUDENT LOAN PROGRAM; SUSPENSION PERIOD (AUG. 19, 1972—MAR. 1, 1973) FOR EFFECTIVENESS OF CERTAIN AMENDMENTS BY EDUCATION AMENDMENTS OF JUNE 23, 1972.

Amendment of subsecs. (a)(1) and (b)(1)(A), (H), (L), (c)(1), and (e) of this section by sections 132A,

132C, and 132D of Pub. L. 92–318 suspended for period beginning Aug. 19, 1972, and ending Mar. 1, 1973, such subsecs. (a)(1), (b)(1)(A), (H), (L), (c)(1), (e) as in effect prior to June 23, 1972, as effective during the suspension period, and any action taken or obligation undertaken under amended provisions prior to Aug. 19, 1972, as unaffected, see Pub. L. 92–391, Aug. 19, 1972, 86 Stat. 563, set out as a note under section 1074 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1071, 1072, 1073, 1075, 1078a, 1080, 1081, 1082, 1084, 1087, 1087–1, 1087–2 of this title.

§ 1078a. Special allowances for insured student loans.

(a) Eligibility; amount; time and manner of payment; promulgation of regulations; effective date; study and report to Congress of discriminatory practices; increased financial assistance opportunities; definitions.

* * * * *

(7) As used in this section, the term "eligible loan" means a loan made on or after August 1, 1969, and prior to July 1, 1975, which is insured under this part, or made under a program covered by an agreement under section 1078(b) of this title.

* * * * *

(As amended Pub. L. 92–318, title I, § 134(a), June 23, 1972, 86 Stat. 270; Pub. L. 93–269, § 5, Apr. 18, 1974, 88 Stat. 89.)

AMENDMENTS

1974.—Subsec. (a)(7). Pub. L. 93–269 substituted "July 1, 1975" for "July 1, 1974".

1972—Subsec. (a)(7). Pub. L. 92–318 substituted "July 1, 1974" for "July 1, 1971".

EFFECTIVE DATE OF 1972 AMENDMENT

Section 134(b) of Pub. L. 92–318 provided that: "The amendment made by subsection (a) [to subsec. (a)(7) of this section] shall be effective on and after July 1, 1971."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1221 of this title.

§ 1080. Default of student borrower under Federal loan insurance program.

(a) Notification of Commissioner; payment of amount of loss.

Upon default by the student borrower on any loan covered by Federal loan insurance pursuant to this part, and prior to the commencement of suit or other enforcement proceeding upon security for that loan, the insurance beneficiary shall promptly notify the Commissioner, and the Commissioner shall if requested (at that time or after further collection efforts) by the beneficiary, or may on his own motion, if the insurance is still in effect, pay to the beneficiary the amount of the loss sustained by the insured upon that loan as soon as that amount has been determined. The "amount of the loss" on any loan shall, for the purposes of this subsection and subsection (b) of this section, be deemed to be an amount equal to the unpaid balance of the principal amount and interest.

* * * * *

(As amended Pub. L. 92–318, title I, § 132B(c), June 23, 1972, 86 Stat. 262.)

AMENDMENTS

1972—Subsec. (a). Pub. L. 92–318 substituted in last sentence "and interest" for "of the loan (other than interest added to principal)".

SAVINGS PROVISION

Amendment of subsec. (a) of this section by Pub. L. 92–318 not effective with respect to any loan made after June 23, 1972, in whole or in part, to consolidate or convert a loan made or contracted for prior to its effective date, see section 132F of Pub. L. 92–318, set out as a note under section 1074 of this title.

GUARANTEED STUDENT LOAN PROGRAM; SUSPENSION PERIOD (AUG. 19, 1972—MAR. 1, 1973) FOR EFFECTIVENESS OF CERTAIN AMENDMENTS BY EDUCATION AMENDMENTS OF JUNE 23, 1972

Amendment of subsec. (a) of this section by section 132B of Pub. L. 92–318 suspended for period beginning Aug. 19, 1972, and ending Mar. 1, 1973, such subsec. (a) as in effect prior to June 23, 1972, as effective during the suspension period, and any action taken or obligation undertaken under amended provisions prior to Aug. 19, 1972, as unaffected, see Pub. L. 92–391, Aug. 19, 1972, 86 Stat. 563, set out as a note under section 1074 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1075, 1078, 1079 of this title.

§ 1082. Powers and duties of Commissioner.

* * * * *

(b) The Commission shall, with respect to the financial operations arising by reason of this part—

* * * * *

(2) maintain with respect to insurance under this part a set of accounts, which shall be audited by the Comptroller General in accordance with the provisions of the Accounting and Auditing Act of 1950, except that the transactions of the Commissioner, including the settlement of insurance claims and of claims for payments pursuant to section 1078 of this title, and transactions related thereto and vouchers approved by the Commissioner in connection with such transactions, shall be final and conclusive upon all accounting and other officers of the Government.

(As amended Pub. L. 93–604, title VII, § 705(a), Jan. 2, 1975, 88 Stat. 1964.)

REFERENCES IN TEXT

The Accounting and Auditing Act of 1950, referred to in subsec. (b)(2), is classified to section 65 et seq. of Title 31, Money and Finance.

AMENDMENTS

1975—Subsec. (b)(2). Pub. L. 93–604 substituted "a set of accounts, which shall be audited by the Comptroller General in accordance with the provisions of the Accounting and Auditing Act of 1950" for "an integral set of accounts, which shall be audited annually by the General Accounting Office in accordance with principles and procedures applicable to commercial corporate transactions, as provided by section 850 of Title 31".

§ 1083. Direct loans to students.

* * * * *

(c) Authorization of appropriations.

There is authorized to be appropriated the sum of $1,000,000 for the fiscal year ending June 30, 1969 and for each of the succeeding fiscal years ending prior to July 1, 1975 to carry out this section.

(As amended Pub. L. 92–318, title I, § 132(c), June 23, 1972, 86 Stat. 261.)

AMENDMENTS

1972—Subsec. (c). Pub. L. 92–318 substituted "succeeding fiscal years ending prior to July 1, 1975" for "two succeeding fiscal years".

EFFECTIVE DATE OF 1972 AMENDMENT

Amendment by Pub. L. 92–318 effective after June 30, 1971, see section 132(d) of Pub. L. 92–318, set out as a note under section 1074 of this title.

SAVINGS PROVISION

Amendment of subsec. (c) of this section by Pub. L. 92–318 not effective with respect to any loan made after June 23, 1972, in whole or in part, to consolidate or convert a loan made or contracted for prior to its effective date, see section 132F of Pub. L. 92–318, set out as a note under section 1074 of this title.

Guaranteed student loan program, suspension period (Aug. 19, 1972—Mar. 1, 1973) for effectiveness of certain amendments by Education Amendments of June 23, 1972, see Pub. L. 92–391, Aug. 19, 1972, 86 Stat. 563, set out as a note under section 1074 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1077, 1078 of this title.

§ 1084. Authority of Federal credit unions to make insured loans to student members.

Notwithstanding any other provision of law, Federal credit unions shall, pursuant to regulations of the Director of the Bureau of Federal Credit Unions have power to make insured loans to student members in accordance with the provisions of this part relating to federally insured loans, or in accordance with the provisions of any State or nonprofit private student loan insurance program which meets the requirements of section 1078(a)(1)(C) of this title. (As amended Pub. L. 92–318, title I, § 132D(e), June 23, 1972, 86 Stat. 264.)

AMENDMENTS

1972—Pub. L. 92–318 removed the limitation on loans up to 15 per centum of the assets.

GUARANTEED STUDENT LOAN PROGRAM; SUSPENSION PERIOD (AUG. 19, 1972—MAR. 1, 1973) FOR EFFECTIVENESS OF CERTAIN AMENDMENTS BY EDUCATION AMENDMENTS OF JUNE 23, 1972.

Amendment of section by section 132D of Pub. L. 92–318 suspended for period beginning Aug. 19, 1972, and ending Mar. 1, 1973, the provisions as in effect prior to June 23, 1972, as effective during the suspension period, and any action taken or obligation undertaken under amended provisions prior to Aug. 19, 1972," as unaffected, see Pub. L. 92–391, Aug. 19, 1972, 86 Stat. 563, set out as a note under section 1074 of this title.

§ 1085. Definitions.

GUARANTEED STUDENT LOAN PROGRAM; SUSPENSION PERIOD (AUG. 19, 1972—MAR. 1, 1973) FOR EFFECTIVENESS OF CERTAIN AMENDMENTS BY EDUCATION AMENDMENTS OF JUNE 23, 1972.

Amendment of section by section 132D of Pub. L. 92–318 suspended for period beginning Aug. 19, 1972, and ending Mar. 1, 1973, the provisions as in effect prior to June 23, 1972, as effective during the suspension period, and any action taken or obligation undertaken under amended provisions prior to Aug. 19, 1972, as unaffected, see Pub. L. 92–391, Aug. 19, 1972, 86 Stat. 563, set out as a note under section 1074 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1087–2 of this title.

§ 1086. District of Columbia student loan insurance program.

(a) Powers of Mayor of District of Columbia.

The Mayor of the District of Columbia is authorized (1) to establish a student loan insurance program which meets the requirements of this part for a State loan insurance program in order to enter into agreements with the Commissioner for the purposes of this part, (2) to enter into such agreements with the Commissioner, (3) to use amounts appropriated to such Mayor of the District of Columbia for the purposes of this section to establish a fund for such purposes and for expenses in connection therewith, and (4) to accept and use donations for the purposes of this section.

* * * * *

(c) Appropriation of funds.

There are authorized to be appropriated to such Mayor of the District of Columbia such amounts as may be necessary for the purposes of this section. (Pub. L. 89–329, title IV, § 436, as added Pub. L. 89–752, § 12, Nov. 3, 1966, 80 Stat. 1244, and amended Pub. L. 90–575, title I, § 116(b)(5), Oct. 16, 1968, 82 Stat. 1024.)

CODIFICATION

Section is also set out in D.C. Code, § 1–265.

TRANSFER OF FUNCTIONS

"Mayor of the District of Columbia" was substituted for "Commissioner of the District of Columbia" since the office of the Commissioner as established by Reorg. Plan No. 3 of 1967 was abolished as of noon Jan. 2, 1975 by section 711 of Pub. L. 93–198, Dec. 24, 1973, 87 Stat. 818 (D.C. Code § 1–131), and replaced by the office of Mayor of the District of Columbia by section 421 of Pub. L. 93–198, Dec. 24, 1973, 87 Stat. 789 (D.C. Code § 1–161).

References to the Board of Commissioners of the District of Columbia and to such Board had been changed to the Commissioner of the District of Columbia pursuant to 1967 Reorg. Plan No. 3, § 401, 32 F.R. 11669, 81 Stat. 948, which transferred the functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the Appendix to Title 5, Government Organization and Employees. See, also, effective date note under such plan.

GUARANTEED STUDENT LOAN PROGRAM; SUSPENSION PERIOD (AUG. 19, 1972—MAR. 1, 1973) FOR EFFECTIVENESS OF CERTAIN AMENDMENTS BY EDUCATION AMENDMENTS OF JUNE 23, 1972.

Amendment of section by section 132D of Pub. L. 92–318 suspended for period beginning Aug. 19, 1972, and ending Mar. 1, 1973, the provisions as in effect prior to June 23, 19722, as effective during the suspension period, and any action taken or obligation undertaken under amended provisions prior to Aug. 19, 1972, as unaffected, see Pub. L. 92–391, Aug. 19, 1972, 86 Stat. 563, set out as a note under section 1074 of this title.

§ 1087. Repayment by Commissioner of loans of deceased or disabled borrowers.

If a student borrower who has received a loan described in clause (A), (B), or (C) of section 1078(a)(1) of this title dies or becomes permanently and totally disabled (as determined in accordance with regulations of the Commissioner), then the Commissioner shall discharge the borrower's liability on the loan by repaying the amount owed on the loan. (As amended Pub. L. 92–318, title I, § 132D [a], June 23, 1972, 86 Stat. 263.)

AMENDMENTS

1972—Pub. L. 92–318 substituted "loans described in clause (A), (B), or (C) of section 1078(a)(1) of this title" for "loan with respect to which a portion of the

interest (1) is payable by the Commissioner under section 1078(a) of this title, or (2) would be payable but for the adjusted family income of the borrower,".

SAVINGS PROVISION

Amendment by Pub. L. 92–318 not effective with respect to any loan made after June 23, 1972, in whole or in part, to consolidate or convert a loan made or constructed for prior to its effective date, see section 132F of Pub. L. 92–318, set out as a note under section 1074 of this title.

GUARANTEED STUDENT LOAN PROGRAM; SUSPENSION PERIOD (AUG. 19, 1972–MAR. 1, 1973) FOR EFFECTIVENESS OF CERTAIN AMENDMENTS BY EDUCATION AMENDMENTS OF JUNE 23, 1972

Amendment of section by section 132D of Pub. L. 92–318 suspended for period beginning Aug. 19, 1972, and ending Mar. 1, 1973, the provisions as in effect prior to June 23, 1972, as effective during the suspension period, and any action taken or obligation undertaken under amended provisions prior to Aug. 19, 1972, as unaffected, see Pub. L. 92–391, Aug. 19, 1972, 86 Stat. 563, set out as a note under section 1074 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1071, 1075, 1077, 1078 of this title.

§ 1087–1. Eligibility of institutions.

(a) Regulations: audit, standards of financial responsibility and institutional capability, and limitation, suspension, or termination of eligibility.

Notwithstanding any other provision of this part, the Commissioner is authorized to prescribe such regulations as may be necessary to provide for—

(1) a fiscal audit of an eligible institution with regard to any funds obtained from a student who has received a loan insured under this part, or insured by a State or nonprofit private institution or organization with which the Commissioner has an agreement under section 1078(b) of this title;

(2) the establishment of reasonable standards of financial responsibility and appropriate institutional capability for the administration by an eligible institution of a program of student financial aid with respect to funds obtained from a student who has received a loan insured under this part, or insured by a State or nonprofit private institution or organization with which the Commissioner has an agreement under section 1078(b) of this title;

(3) the limitation, suspension, or termination of the eligibility under this part of any otherwise eligible institution, whenever the Commissioner has determined, after notice and affording an opportunity for hearing, that such institution has violated or failed to carry out any regulation prescribed under this part.

(b) List of State agencies, publication.

The Commissioner shall publish a list of State agencies which he determines to be reliable authority as to the quality of public postsecondary vocational education in their respective States for the purpose of determining eligibility for all Federal student assistance programs. (Pub. L. 89–329, title IV, § 438, as added Pub. L. 92–318, title I, § 132E(a), June 23, 1972, 86 Stat. 264.)

EFFECTIVE DATE

Section 132E(b) of Pub. L. 92–318 provided that: "The amendment made by subsection (a) [enacting this section] shall be effective on and after the sixtieth day following the enactment of this Act [June 23, 1972]."

GUARANTEED STUDENT LOAN PROGRAM; SUSPENSION PERIOD (AUG. 19, 1972—MAR. 1, 1973) FOR EFFECTIVENESS OF CERTAIN AMENDMENTS BY EDUCATION AMENDMENTS OF JUNE 23, 1972

Subsec. (a) of this section suspended for period beginning Aug. 19, 1972, and ending Mar. 1, 1973, but subsec. (b) of this section effective during the suspension period [as provided in section 132E(b) of Pub. L. 92–318], see Pub. L. 92–391, Aug. 19, 1972, 86 Stat. 563, set out as a note under section 1074 of this title.

§ 1087–2. Student Loan Marketing Association.

(a) Congressional declaration of purpose.

The Congress hereby declares that it is the purpose of this section to establish a Government-sponsored private corporation which will be financed by private capital and which will serve as a secondary market and warehousing facility for insured student loans, insured by the Commissioner under this part or by a State or nonprofit private institution or organization with which the Commissioner has an agreement under section 1078(b) of this title, and which will provide liquidity for student loan investments.

(b) Establishment; tax exemption; authorization of appropriations; advances, interest.

(1) There is hereby created a body corporate to be known as the Student Loan Marketing Association (hereinafter referred to as the "Association"). The Association shall have succession until dissolved. It shall maintain its principal office in the District of Columbia and shall be deemed, for purposes of venue in civil actions, to be a resident thereof. Offices may be established by the Association in such other place or places as it may deem necessary or appropriate for the conduct of its business.

(2) The Association, including its franchise, capital, reserves, surplus, mortgages, or other security holdings, and income shall be exempt from all taxation now or hereafter imposed by any State, territory, possession, Commonwealth, or dependency of the United States, or by the District of Columbia, or by any county, municipality, or local taxing authority, except that any real property of the Association shall be subject to State, territorial, county, municipal, or local taxation to the same extent according to its value as other real property is taxed.

(3) There is hereby authorized to be appropriated to the Secretary of Health, Education, and Welfare $5,000,000 for making advances for the purpose of helping to establish the Association. Such advances shall be repaid within such period as the Secretary may deem to be appropriate in light of the maturity and solvency of the Association. Such advances shall bear interest at a rate not less than (A) a rate determined by the Secretary of the Treasury taking into consideration the current average market yield on outstanding marketable obligations of the United States with remaining periods to maturity comparable to the maturity of such advances, adjusted to the nearest one-eighth of 1 per centum, plus (B) an allowance adequate in the judgment of the Secretary to cover administrative costs and probable losses. Repayments of such advances shall be deposited into miscellaneous receipts of the Treasury.

(c) Board of Directors.

(1) The Association shall have a Board of Directors which shall consist of twenty-one persons,

one of whom shall be designated Chairman by the President.

(2) An interim Board of Directors shall be appointed by the President, one of whom he shall designate as interim Chairman. The interim Board shall consist of twenty-one members, seven of whom shall be representative of banks or other financial institutions which are insured lenders pursuant to this section, seven of whom shall be representative of educational institutions, and seven of whom shall be representative of the general public. The interim Board shall arrange for an initial offering of common and preferred stocks and take whatever other actions are necessary to proceed with the operations of the Association.

(3) When in the judgment of the President, sufficient common stock of the Association has been purchased by educational institutions and banks or other financial institutions, the holders of common stock which are educational institutions shall elect seven members of the Board of Directors and the holders of common stock which are banks or other financial institutions shall elect seven members of the Board of Directors. The President shall appoint the remaining seven directors, who shall be representative of the general public.

(4) At the time the events described in paragraph (3) have occurred, the interim Board shall turn over the affairs of the Association to the regular Board so chosen or appointed.

(5) The directors appointed by the President shall serve at the pleasure of the President and until their successors have been appointed and have qualified. The remaining directors shall each be elected for a term ending on the date of the next annual meeting of the common stockholders of the Association, and shall serve until their successors have been elected and have qualified. Any appointive seat on the Board which becomes vacant shall be filled by appointment of the President. Any elective seat on the Board which becomes vacant after the annual election of the directors shall be filled by the Board, but only for the unexpired portion of the term.

(6) The Board of Directors shall meet at the call of its Chairman, but at least semiannually. The Board shall determine the general policies which shall govern the operations of the Association. The Chairman of the Board shall, with the approval of the Board, select, appoint, and compensate qualified persons to fill the offices as may be provided for in the bylaws, with such executive functions, powers, and duties as may be prescribed by the bylaws or by the Board of Directors, and such persons shall be the executive officers of the Association and shall discharge all such executive functions, powers, and duties.

(d) Insured student loans, servicing; limitation.

(1) The Association is authorized, subject to the provisions of this section, pursuant to commitments or otherwise, to make advances on the security of, purchase, service, sell, or otherwise deal in, at prices and on terms and conditions determined by the Association, student loans which are insured by the Commissioner under this part or by a State or nonprofit private institution or organization with which the Commissioner has an agreement under section 1078(b) of this title.

(2) Any warehousing advance made under paragraph (1) of this subsection shall not exceed 80 per centum of the face amount of an insured loan. The proceeds from any such advance shall be invested in additional insured student loans.

(e) Nondiscrimination.

The Association, pursuant to such criteria as the Board of Directors may prescribe, shall make advances on security or purchase student loans pursuant to subsection (d) of this section only after the Association is assured that the lender (A) does not discriminate by pattern or practice against any particular class or category of students by requiring that, as a condition to the receipt of a loan, the student or his family maintain a business relationship with the lender, except that this clause shall not apply in the case of a loan made by a credit union, savings and loan association, mutual savings bank, institution of higher education or any other lender with less than $50,000,000 in deposits, and (B) does not discriminate on the basis of race, sex, color, creed, or national origin.

(f) Common stock.

(1) The Association shall have common stock having a par value of $100 per share which may be issued only to lenders under this part, pertaining to guaranteed student loans, who are qualified as insured lenders under this part or who are eligible institutions as defined in section 1085(a) of this title (other than an institution outside the United States).

(2) Each share of common stock shall be entitled to one vote with rights of cumulative voting at all elections of directors. Voting shall be by classes as described in subsection (c)(3) of this section.

(3) The common stock of the Association shall be transferable only as may be prescribed by regulations of the Secretary of Health, Education, and Welfare, and, as to the Association, only on the books of the Association. The Secretary of Health, Education, and Welfare shall prescribe the maximum number of shares of common stock the Association may issue and have outstanding at any one time.

(4) To the extent that net income is earned and realized, subject to subsection (g)(2) of this section, dividends may be declared on common stock by the Board of Directors. Such dividends as may be declared by the Board shall be paid to the holders of outstanding shares of common stock, except that no such dividends shall be payable with respect to any share which has been called for redemption past the effective date of such call.

(g) Nonvoting preferred stock.

(1) The Association is authorized, with the approval of the Secretary of Health, Education, and Welfare, to issue nonvoting preferred stock with a par value of $100 per share. Any preferred share issued shall be freely transferable, except that, as to the Association, it shall be transferred only on the books of the Association.

(2) The holders of the preferred shares shall be entitled to such rate of cumulative dividends and such

shares shall be subject to such redemption or other conversion provisions, as may be provided for at the time of issuance. No dividends shall be payable on any share of common stock at any time when any dividend is due on any share of preferred stock and has not been paid.

(3) In the event of any liquidation, dissolution, or winding up of the Association's business, the holders of the preferred shares shall be paid in full at par value thereof, plus all accrued dividends, before the holders of the common shares receive any payment.

(h) Outstanding obligations; authorization of appropriations.

(1) The Association is authorized with the approval of the Secretary of Health, Education, and Welfare and the Secretary of the Treasury to issue and have outstanding obligations having such maturities and bearing such rate or rates of interest as may be determined by the Association. Such obligations may be redeemable at the option of the Association before maturity in such manner as may be stipulated therein.

(2) The Secretary of Health, Education, and Welfare is authorized, prior to July 1, 1982, to guarantee payment when due of principal and interest on obligations issued by the Association in an aggregate amount determined by the Secretary in consultation with the Secretary of the Treasury.

(3) To enable the Secretary of Health, Education, and Welfare to discharge his responsibilities under guarantees issued by him, he is authorized to issue to the Secretary of the Treasury notes or other obligations in such forms and denominations, bearing such maturities, and subject to such terms and conditions, as may be prescribed by the Secretary of Health, Education, and Welfare with the approval of the Secretary of the Treasury. Such notes or other obligations shall bear interest at a rate determined by the Secretary of the Treasury, taking into consideration the current average market yield on outstanding marketable obligations of the United States of comparable maturities during the months preceding the issuance of the notes or other obligations. The Secretary of the Treasury is authorized and directed to purchase any notes and other obligations issued hereunder and for that purpose he is authorized to use as a public debt transaction the proceeds from the sale of any securities issued under the Second Liberty Bond Act, as amended, and the purposes for which securities may be issued under that Act, as amended, are extended to include any purchase of such notes and obligations. The Secretary of the Treasury may at any time sell any of the notes or other obligations acquired by him under this subsection. All redemptions, purchases, and sales by the Secretary of the Treasury of such notes or other obligations shall be treated as public debt transactions of the United States. There is authorized to be appropriated to the Secretary of Health, Education, and Welfare such sums as may be necessary to pay the principal and interest on the notes or obligations issued by him to the Secretary of the Treasury.

(i) Powers of Association.

The Association shall have power—

(1) to sue and be sued, complain and defend, in its corporate name and through its own counsel;

(2) to adopt, alter, and use the corporate seal, which shall be judicially noticed;

(3) to adopt, amend, and repeal by its Board of Directors, bylaws, rules, and regulations as may be necessary for the conduct of its business;

(4) to conduct its business, carry on its operations, and have officers and exercise the power granted by this section in any State without regard to any qualification or similar statute in any State;

(5) to lease, purchase, or otherwise acquire, own, hold, improve, use, or otherwise deal in and with any property, real, personal, or mixed, or any interest therein, wherever situated;

(6) to accept gifts or donations of services, or of property, real, personal, or mixed, tangible or intangible, in aid of any of the purposes of the Association;

(7) to sell, convey, mortgage, pledge, lease, exchange, and otherwise dispose of its property and assets;

(8) to appoint such officers, attorneys, employees, and agents as may be required, to determine their qualifications, to define their duties, to fix their salaries, require bonds for them and fix the penalty thereof; and

(9) to enter into contracts, to execute instruments, to incur liabilities, and to do all things as are necessary or incidental to the proper management of its affairs and the proper conduct of its business.

(j) Annual audit; report to Secretary of Treasury.

The accounts of the Association shall be audited annually. Such audits shall be conducted in accordance with generally accepted auditing standards by independent certified public accountants or by independent licensed public accountants, licensed on or before December 31, 1970, who are certified or licensed by a regulatory authority of a State or other political subdivision of the United States, except that independent public accountants licensed to practice by such regulatory authority after December 31, 1970, and persons who, although not so certified or licensed, meet, in the opinion of the Secretary, standards of education and experience representative of the highest standards prescribed by the licensing authorities of the several States which provide for the continuing licensing of public accountants and which are prescribed by the Secretary in appropriate regulations may perform such audits until December 31, 1975. A report of each such audit shall be furnished to the Secretary of the Treasury. The audit shall be conducted at the place or places where the accounts are normally kept. The representatives of the Secretary shall have access to all books, accounts, financial records, reports, files, and all other papers, things, or property belonging to or in use by the Association and necessary to facilitate the audit, and they shall be afforded full facilities for verifying transactions with the balances or securities held by depositaries, fiscal agents, and custodians.

(k) Same; report to President and Congress.

A report of each such audit for a fiscal year shall be made by the Secretary of the Treasury to the President and to the Congress not later than six months following the close of such fiscal year. The

report shall set forth the scope of the audit and shall include a statement (showing intercorporate relations) of assets and liabilities, capital and surplus or deficit; a statement of surplus or deficit analysis; a statement of income and expense; a statement of sources and application of funds; and such comments and information as may be deemed necessary to keep the President and the Congress informed of the operations and financial condition of the Association, together with such recommendations with respect thereto as the Secretary may deem advisable, including a report of any impairment of capital or lack of sufficient capital noted in the audit. A copy of each report shall be furnished to the Secretary of Health, Education, and Welfare and to the Association.

(*l*) Lawful investments.

All obligations issued by the Association shall be lawful investments, and may be accepted as security for all fiduciary, trust, and public funds, the investment or deposit of which shall be under authority or control of the United States or of any officer or officers thereof. All stock and obligations issued by the Association pursuant to this section shall be deemed to be exempt securities within the meaning of laws administered by the Securities and Exchange Commission, to the same extent as securities which are direct obligations of, or obligations guaranteed as to principal or interest by, the United States. The Association shall, for the purposes of section 355(b)(2) of Title 12, be deemed to be an agency of the United States.

(m) Obligations; preparation and delivery; reimbursement.

In order to furnish obligations for delivery by the Association, the Secretary of the Treasury is authorized to prepare such obligations in such form as the Board of Directors may approve, such obligations when prepared to be held in the Treasury subject to delivery upon order by the Association. The engraved plates, dies, bed pieces, and so forth, executed in connection therewith shall remain in the custody of the Secretary of the Treasury. The Association shall reimburse the Secretary of the Treasury for any expenditures made in the preparation, custody, and delivery of such obligations.

(n) Operations and activities; report to President and Congress.

The Association shall, as soon as practicable after the end of each fiscal year, transmit to the President and the Congress a report of its operations and activities during each year. (Pub. L. 89–329, title IV § 439, as added Pub. L. 92–318, title I, § 133(a), June 23, 1972, 86 Stat. 265.)

REFERENCES IN TEXT

The Second Liberty Bond Act, as amended, referred to in subsec. (h)(3), is act Sept. 24, 1917, ch. 56, 40 Stat. 288, as amended, which is classified to section 745, former section 747, sections 752, 752a, 753, 754, 754a, 754b, 757, 757b, and 757c, former section 757c–1, sections 757c–2, 757c–3, 757c–4, 757d, 757e, 758, 760, and 764, former section 765, and sections 766, 769, 771, 773, 774, and 301 of Title 31, Money and Finance.

That Act, as amended, referred to in subsec. (h)(3), means the Second Liberty Bond Act, as amended.

SEPARABILITY OF PROVISIONS

Section 133(b) of Pub. L. 92–318 provided that: "If any provision of the amendment made by subsection (a) of this section [enacting this section] or the application thereof to any person or circumstances is held invalid, the validity of the remainder of the amendment [enacting this section], and the application of such provisions to other persons or circumstances, shall not be affected."

PART C.—COOPERATIVE EDUCATION PROGRAMS

§ 1087a. Authorization of appropriations.

(a) There are authorized to be appropriated $340,000 for the fiscal year ending June 30, 1969, $8,000,000 for the fiscal year ending June 30, 1970, and $10,000,000 for each of the succeeding fiscal years ending prior to July 1, 1975, to enable the Commissioner to make grants pursuant to section 1087b of this title to institutions of higher education for the planning, establishment, expansion, or carrying out by such institutions of programs of cooperative education that alternate periods of full-time academic study with periods of full-time public or private employment that will not only afford students the opportunity to earn through employment funds required toward continuing and completing their education but will, so far as practicable, give them work experience related to their academic or occupational objective. Such amount for the fiscal year ending June 30, 1969, shall also be available for planning and related activities for the purpose of this subchapter.

(b) There are further authorized to be appropriated $750,000 for the fiscal year ending June 30, 1969, and for each of the succeeding fiscal years ending prior to July 1, 1975, to enable the Commissioner to make training, demonstration, or research grants or contracts pursuant to section 1087c of this title.

* * * * *

(As amended Pub. L. 92–318, title I, § 136(a), (b)(1), June 23, 1972, 86 Stat. 272.)

AMENDMENTS

1972—Subsec. (a). Pub. L. 92–318, § 136(a)(1), substituted "each of the succeeding fiscal years ending prior to July 1, 1975" for "the fiscal year ending June 30, 1971".

Subsec. (b). Pub. L. 92–318, § 136(a)(2), (b)(1), substituted "succeeding fiscal years ending prior to July 1, 1975" for "two succeeding fiscal years" and inserted ", demonstration," after "training".

EFFECTIVE DATE OF 1972 AMENDMENT

Section 136(c) of Pub. L. 92–318 provided that: "The amendments made by subsection (a) [making provisions of subsecs. (a) and (b) of this section applicable to fiscal years ending prior to July 1, 1975] shall be effective after June 30, 1971."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1087b, 1087c of this title.

§ 1087c. Grants and contracts for training and research.

From the sums appropriated pursuant to subsection (b) of section 1087a of this title, the Commissioner is authorized, for the training of persons in the planning, establishments, administration, or coordination of programs of cooperative education, for projects demonstrating or exploring the feasibility or value of innovative methods of cooperative

education, or for research into methods of improving, developing, or promoting the use of cooperative education programs in institutions of higher education, to—

* * * * *

(As amended Pub. L. 92–318, title I, § 136(b)(2), June 23, 1972, 86 Stat. 272.)

AMENDMENTS

1972—Pub. L. 92–318 inserted "for projects demonstrating or exploring the feasibility or value of innovative methods of cooperative education," preceding "or for research".

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1087a of this title.

PART D.—DIRECT LOANS TO STUDENTS IN INSTITUTIONS OF HIGHER EDUCATION [NEW]

CODIFICATION

This part was added as part E of title IV of Pub. L. 89–329 by Pub. L. 92–318, title I, § 137(b), June 23, 1972, 86 Stat. 273. The letter designation of this part was changed from "E" to "D" for codification purposes. See Codification note preceding section 1087a of this title in the Main Volume.

PART REFERRED TO IN OTHER SECTIONS

This part is referred to in sections 1070a, 1070b–1, 1070e, 1078 of this title.

§ 1087aa. Low-interest loans.

(a) Student loan fund establishment and maintenance program.

The Commissioner shall carry out a program of stimulating and assisting in the establishment and maintenance of funds at institutions of higher education for the making of low-interest loans to students in need thereof to pursue their courses of study in such institutions.

(b) Authorization of appropriations.

(1) For the purpose of enabling the Commissioner to make contributions to student loan funds established under this part, there are hereby authorized to be appropriated $375,000,000 for the fiscal year ending June 30, 1972, and $400,000,00 for the fiscal year ending June 3, 1973, and for each of the succeeding fiscal years ending prior to July 1, 1975.

(2) In addition there are hereby authorized to be appropriated such sums for the fiscal year ending June 30, 1976, and each of the three succeeding fiscal years as may be necessary to enable students who have received loans for academic years ending prior to July 1, 1975, to continue or complete courses of study.

(c) Availability of appropriations for apportionment and payment of Federal capital contributions.

Any sums appropriated pursuant to subsection (b) of this section for any fiscal year shall be available for apportionment pursuant to section 1087bb of this title and for payments of Federal capital contributions therefrom to institutions of higher education which have agreements with the Commissioner under section 1087cc of this title. Such Federal capital contributions and all contributions from such institutions shall be used for the establishment, expansion, and maintenance of student loan funds. (Pub. L. 89–329, title IV, § 461, as added Pub. L. 92–318, title I, § 137(b), June 23, 1972, 86 Stat. 273.)

CONTINUATION OF NATIONAL DEFENSE EDUCATION LOAN PROVISIONS; REGULATIONS; VESTED INTERESTS; LOAN FUND: ESTABLISHMENT, ASSETS

Section 137(d)(1) of Pub. L. 92–318 provided that: "Upon enactment of this Act [Pub. L. 92–318], the program authorized by part E of title IV of the Higher Education Act of 1965 as added by subsection (b) [this part] is, and shall be deemed to be, a continuation of the program authorized by title II of the National Defense Education Act of 1958 [section 421 et seq. of this title]. In accordance with regulations of the Commissioner, except as provided in subsection (c), all rights, privileges, duties, functions, and obligations under such title II prior to the enactment of this Act [June 23, 1972] shall be deemed to be vested, as the Commissioner determines to be appropriate, under such part E [this part]. Any student loan fund established under an agreement under such title II shall, in accordance with regulations, be deemed to have been established under such part E [this part]; and any assets of such student loan fund of any institution shall be deemed to be the assets of a student loan fund established under an agreement of that institution with the Commissioner under such part E [this part]."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1087bb, 1087ee of this title.

§ 1087bb. Apportionment of appropriations.

(a) Amount.

(1) From 90 per centum of the sums appropriated pursuant to section 1087aa(b)(1) of this title for any fiscal year, the Commissioner shall apportion to each State an amount which bears the same ratio to the amount so appropriated as the number of persons enrolled on a full-time basis in institutions of higher education, as determined by the Commissioner for the most recent year for which satisfactory data are available to him, in such State, bears to the total number of persons so enrolled in all the States. The remainder of the sums so appropriated shall be apportioned among the States by the Commissioner in accordance with equitable criteria which he shall establish and which shall be designed to achieve a distribution of the sums so appropriated among the States which will most effectively carry out the purpose of this part, except that where any State's apportionment under the first sentence for a fiscal year is less than its allotment under section 422(a) of this title for the fiscal year ending June 30, 1972, before he makes any other apportionments under this sentence, the Commissioner shall apportion sufficient additional sums to such State under this sentence to make the State's apportionment for that year under this paragraph equal to its allotment for the fiscal year ending June 30, 1972, under such section 422(a). Sums apportioned to a State under the preceding sentence shall be consolidated with, and become a part of, its apportionment from the same appropriation under the first sentence of this paragraph.

(2) Any sums appropriated pursuant to section 1087aa(b)(2) of this title for any fiscal year shall be apportioned among institutions of higher education in such a manner as the Commissioner determines will best accomplish the purpose for which they were appropriated.

(b) Agreement and application requirements; filing time; installment payments for prevention of unnecessary accumulation of capital in student loan fund.

(1) Any institution of higher education desiring to receive payments of Federal capital contributions

from the apportionment of the State in which it is located for any fiscal year shall make an agreement under section 1087cc of this title and shall submit an application therefor to the Commissioner, in accordance with the provisions of this part. The Commissioner shall, from time to time, set dates before which such institutions must file applications under this section.

(2) The Commissioner shall pay to each applicant under this subsection which has an agreement with him under section 1087cc of this title, from the amount apportioned to the State in which it is located, the amount requested in such application. Such payment may be made in such installments as the Commissioner determines will not result in unnecessary accumulations of capital in the student loan fund of the applicant established under its agreement under section 1087cc of this title.

(c) Bases for reductions and increases in requests; reapportionment of excess funds.

(1)(A) If the total amount of Federal capital contributions requested in the applications from a State for any fiscal year exceeds the amount apportioned to that State, the request from each institution shall be reduced ratably.

(B) In case additional amounts become available for payments to student loan funds in a State in which requests have been ratably reduced under subparagraph (A), such requests shall be increased on the same basis as they were reduced, except that no request shall be increased above the request submitted under subsection (b)(1) of this section.

(2) If the amount of an apportionment to a State for any fiscal year exceeds the total amount of Federal capital contributions requested in applications from that State, such excess shall be available for reapportionment from time to time on such date or dates as the Commissioner shall fix. From the aggregate of such excess for any fiscal year, the Commissioner shall reapportion to each State in which requests were reduced under subparagraph (A) of paragraph (1) an amount which bears the same ratio to such aggregate as the total amount of such reduction in that State bears to the total amount of such reductions in all the States.

(d) Limitations.

The aggregate of the amounts of Federal capital contributions paid under this section for any fiscal year to proprietary institutions of higher education may not exceed the amount by which the sums appropriated pursuant to section 1087aa(b)(1) of this title for that fiscal year exceed $190,000,000. (Pub. L. 89–329, title IV, § 462, as added Pub. L. 92–318, title I, § 137(b), June 23, 1972, 86 Stat. 273.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1087aa of this title.

§ 1087cc. Agreements with institutions of higher education.

(a) Terms and provisions.

An agreement with any institution of higher education for the payment of Federal capital contributions under this part shall—

(1) provide for the establishment and maintenance of a student loan fund for the purposes of this part;

(2) provide for the deposit in such fund of—

(A) the Federal capital contributions,

(B) a capital contribution by such institution in an amount equal to not less than one-ninth of the amount of such Federal contributions,

(C) collections of principal and interest on student loans made from such fund,

(D) charges collected pursuant to regulations under section 1087dd(c)(1)(G) of this title, and

(E) any other earnings of the funds;

(3) provide that such student loan fund shall be used only for—

(A) loans to students, in accordance with the provisions of this part,

(B) administrative expenses, as provided in subsection (b) of this section,

(C) capital distributions, as provided in section 1087ff of this title, and

(D) costs of litigation, and other collection costs agreed to by the Commissioner in connection with the collection of a loan from the fund (and interest thereon) or a charge assessed pursuant to regulations under section 1087dd(c)(1)(G) of this title;

(4) provide that where a note or written agreement evidencing a loan has been in default for at least 2 years despite due diligence on the part of the institution in making collection thereon, the institution may assign its rights under such note or agreement to the United States, without recompense, and that in that event any sums collected on such a loan shall be deposited in the general fund of the Treasury; and

(5) include such other provisions as may be necessary to protect the financial interest of the United States and promote the purposes of this part as are agreed to by the Commissioner and the institution.

(b) Administrative expenses.

An institution which has entered into an agreement under subsection (a) of this section shall be entitled, for each fiscal year during which it makes student loans from a student loan fund established under such agreement, to a payment in lieu of reimbursement for its expenses in administering its student loan program under this part during such year. Such payment shall be made in accordance with section 1088b of this title. (Pub. L. 89–329, title IV, § 463, as added Pub. L. 92–318, title I, § 137(b), June 23, 1972, 86 Stat. 274.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1070b–2, 1087aa, 1087bb, 1087dd of this title.

§ 1087dd. Terms and conditions of loans.

(a) General provision; limitation on aggregate amount of loan for student; regulations.

(1) Loans from any student loan fund established pursuant to an agreement under section 1087cc of this title to any student by any institution shall, subject to such conditions, limitations, and requirements as the Commissioner shall prescribe by regulation, be made on such terms and conditions as the institution may determine.

(2) The aggregate of the loans for all years made by institutions of higher education from loan funds

established pursuant to agreements under this part may not exceed—

(A) $10,000 in the case of any graduate or professional student (as defined by regulations of the Commissioner, and including any loans from such funds made to such person before he became a graduate or professional student);

(B) $5,000 in the case of a student who has successfully completed two years of a program of education leading to a bachelor's degree, but who has not completed the work necessary for such a degree (determined under regulations of the Commissioner, and including any loans from such funds made to such person before he became such a student); and

(C) $2,500 in the case of any other student.

(3) Regulations of the Commissioner under paragraph (1) shall be designed to prevent the impairment of the capital of student loan funds to the maximum extent practicable and with a view toward the objective of enabling the student to complete his course of study.

(b) Eligibility conditions; suspension of eligibility and regaining good standing.

A loan from a student loan fund assisted under this part may be made only to a student who—

(1) is in need of the amount of the loan to pursue a course of study at such institution;

(2) is capable, in the opinion of the institution, of maintaining good standing in such course of study;

(3) has been accepted for enrollment as an undergraduate, graduate, or professional student in such institution, or, in the case of a student already in attendance at such institution, is in good standing; and

(4) is carrying at least one-half the normal academic workload, as determined by the institution.

In any case in which a student has been determined to be eligible for a loan under the preceding sentence, and such student thereafter fails to maintain good standing, the eligibility of such student shall, upon notice to the Commissioner, be suspended, and further payments to, or on behalf of, such student shall not be made until such student regains good standing.

(c) Written instruments for loans; repayment, deferral.

(1) Any agreement between an institution and a student for a loan from a student loan fund assisted under this part—

(A) shall be evidenced by note or other written instrument which, except as provided in paragraph (2), provides for repayment of the principal amount of the loan, together with interest thereon, in equal installments (or, if the borrower so requests, in graduated periodic installments determined in accordance with such schedules as may be approved by the Commissioner) payable quarterly, bimonthly, or monthly, at the option of the institution, over a period beginning nine months after the date on which the student ceases to carry, at an institution of higher education or a comparable institution outside the United States approved for this purpose by the Commissioner, at least one-half the normal full-time academic workload, and ending ten years and nine months after such date;

(B) shall include provision for acceleration of repayment of the whole, or any part, of such loan, at the option of the borrower;

(C) may provide, at the option of the institution in accordance with regulations of the Commissioner, that during the repayment period of the loan, payments of principal and interest by the borrower with respect to all outstanding loans made to him from student loan funds assisted under this part shall be at a rate equal to not less than $30 per month;

(D) shall provide that the loan shall bear interest, on the unpaid balance of the loan, at the rate of 3 per centum per annum, except that no interest shall accrue (i) prior to the beginning date of repayment determined under clause (A) (i) or (ii) during any period in which repayment is suspended by reason of paragraph (2);

(E) unless the borrower is a minor and the note or other evidence of obligation executed by him would not, under applicable law, create a binding obligation, shall provide that the loan shall be made without security and without endorsement;

(F) shall provide that no note or evidence of obligation may be assigned by the lender, except upon the transfer of the borrower to another institution participating under this part (or, if not so participating, is eligible to do so and is approved by the Commissioner for such purpose), to such institution; and

(G) may, pursuant to regulations of the Commissioner, provide for an assessment of a charge with respect to the loan for failure of the borrower (i) to pay all of an installment when it is due or (ii) to file timely and satisfactory evidence of an entitlement of the borrower to a deferment of repayment benefit or a cancellation benefit provided under this part.

(2)(A) No repayment of principal of, or interest on, any loan from a student loan fund assisted under this part shall be required during any period in which the borrower—

(i) is carrying at least one-half the normal full-time academic workload at an institution of higher education or at a comparable institution outside the United States which is approved for this purpose by the Commissioner;

(ii) is a member of the Armed Forces of the United States;

(iii) is in service as a volunteer under the Peace Corps Act; or

(iv) is in service as a volunteer under title VIII of the Economic Opportunity Act of 1964.

The period during which repayment may be deferred by reason of clause (ii), (iii), or (iv) shall not exceed three years.

(B) Any period during which repayment is deferred under subparagraph (A) shall not be included in computing the ten-year maximum period provided for in clause (A) of paragraph (1).

(3) The Commissioner is authorized, when good cause is shown, to extend, in accordance with regulations, the ten-year maximum repayment period

provided for in clause (A) of paragraph (1) with respect to individual loans.

(4) The amount of any charge under clause (G) of paragraph (1) shall not exceed—

(A) in the case of a loan which is repayable in monthly installments, $1 for the first month or part of a month by which such installment or evidence is late and $2 for each such month or part of a month thereafter; and

(B) in the case of a loan which has a bimonthly or quarterly repayment interval, $3 and $6, respectively, for each such interval or part thereof by which such installment or evidence is late.

The institution may elect to add the amount of any such charge to the principal amount of the loan as of the first day after the day on which such installment or evidence was due, or to make the amount of the charge payable to the institution not later than the due date of the next installment after receipt by the borrower of notice of the assessment of the charge.

(d) Reasonable availability of loans to eligible students.

An agreement under this part for payment of Federal capital contributions shall include provisions designed to make loans from the student loan fund established pursuant to such agreement reasonably available (to the extent of the available funds in such fund) to all eligible students in such institutions in need thereof.

(e) Veteran students in need.

In determining, for purposes of clause (1) of subsection (b) of this section, whether a student who is a veteran (as that term is defined in section 101(2) of Title 38), is in need, an institution shall not take into account the income and assets of his parents. (Pub. L. 89–329, title IV, § 464, as added Pub. L. 92–318, title I, § 137(b), June 23, 1972, 86 Stat. 275.)

REFERENCES IN TEXT

The Peace Corps Act, referred to in subsec. (c)(2)(A)(iii), is Pub. L. 87–293, Sept. 22, 1961, 75 Stat. 612. For distribution in this Code, see Short Title note set out under section 2501 of Title 22, Foreign Relations and Intercourse.

Title VIII of the Economic Opportunity Act of 1964, referred to in subsec. (c)(2)(A)(iv), was repealed and is now covered by section 4951 et seq. of Title 42, The Public Health and Welfare.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1070b–2, 1087cc of this title.

§ 1087ee. Cancellation of loans for certain public service.

(a) Amount; description of public service; definition of "handicapped children" and "year".

(1) The per centum specified in paragraph (3) of this subsection of the total amount of any loan made after June 30, 1972, from a student loan fund assisted under this part shall be canceled for each complete year of service after such date by the borrower under circumstances described in paragraph (2).

(2) Loans shall be canceled under paragraph (1) for service—

(A) as a full-time teacher for service in an academic year in a public or other nonprofit private elementary or secondary school which is in the school district of a local educational agency which is eligible in such year for assistance pursuant to title I of the Elementary and Secondary Education Act of 1965, and which for the purposes of this paragraph and for that year has been determined by the Commissioner (pursuant to regulations and after consultation with the State educational agency of the State in which the school is located) to be a school in which the enrollment of children described in clause (A), (B), or (C) of section 103(a)(2) of title I of the Elementary and Secondary Education Act of 1965 (using a low-income factor of $3,000) exceeds 30 per centum of the total enrollment of that school and such determination shall not be made with respect to more than 50 per centum of the total number of schools in the State receiving assistance under title I;

(B) as a full-time staff member in a preschool program carried on under section 222(a)(1) of the Economic Opportunity Act of 1964 which is operated for a period which is comparable to a full school year in the locality: *Provided*, That the salary of such staff member is not more that the salary of a comparable employee of the local educational agency, or

(C) as a full-time teacher of handicapped children in a public or other nonprofit elementary or secondary school system; or

(D) as a member of the Armed Forces of the United States, for service that qualifies for special pay under section 310 of Title 37 as an area of hostilities.

For the purposes of this paragraph, the term "handicapped children" means children who are mentally retarded, hard of hearing, deaf, speech-impaired, visually handicapped, seriously emotionally disturbed, or other health-impaired children who by reason thereof require special education.

(3)(A) The per centum of a loan which shall be canceled under paragraph (1) of this subsection is—

(i) in the case of service described in clause (A), or (C), of paragraph (2), at the rate of 15 per centum for the first or second year of such service, 20 per centum for the third or fourth year of such service, and 30 per centum for the fifth year of such service:

(ii) in the case of service described in clause (B) of paragraph (2) at the rate of 15 per centum for each year of such service;

(iii) in the case of service described in clause (D) of paragraph (2), not to exceed a total of 50 per centum of such loan at the rate of 12½ per centum for each year of qualifying service.

(B) If a portion of a loan is canceled under this subsection for any year, the entire amount of interest on such loan which accrues for such year shall be canceled.

(C) Nothing in this subsection shall be construed to authorize refunding any repayment of a loan.

(4) For the purposes of this subsection, the term "year" where applied to service as a teacher means academic year as defined by the Commissioner.

(b) Payments to institutions to cover reductions in amounts of loans.

The Commissioner shall pay to each institution for each fiscal year an amount equal to the aggregate of the amounts of loans from its student loan fund

which are canceled pursuant to this section for such year. None of the funds appropriated pursuant to section 1087aa(b) of this title shall be available for payments pursuant to this subsection. (Pub. L. 89–329, title IV, 1 465, as added Pub. L. 92–318, title I, § 137(b), June 23, 1972, 86 Stat. 277.)

REFERENCES IN TEXT

Title I of the Elementary and Secondary Education Act of 1965, referred to in subsec. (a)(2)(A), is classified to section 241a et seq. of this title.

Section 103(a)(2) of title I of the Elementary and Secondary Education Act of 1965, referred to in subsec. (a)(2)(A), is classified to section 241c(a)(2) of this title.

Such Title I, referred to in subsec. (a)(2)A), refers to the Elementary and Secondary Education Act of 1965.

Section 222(a)(1) of the Economic Opportunity Act of 1964, referred to in subsec. (a)(2)(B), is classified to section 2809(a)(1) of Title 42, The Public Health and Welfare.

§ 1087ff. Distribution of assets from student loan funds.

(a) Capital distribution.

After June 30, 1980, and not later than December 31, 1980, there shall be a capital distribution of the balance of the student loan fund established under this part by each institution of higher education as follows:

(1) The Commissioner shall first be paid an amount which bears the same ratio to the balance in such fund at the close of June 30, 1980, as the total amount of Federal capital contributions to such fund by the Commissioner under this part bears to the sum of such Federal contributions and the institution's capital contributions to such fund.

(2) The remainder of such balance shall be paid to the institution.

(b) Payments to Commissioner.

After December 31, 1980, each institution with which the Commissioner has made an agreement under this part, shall pay to the Commissioner the same proportionate share amounts received by the institution after June 30, 1974, in payment of principal and interest on student loans made from the student loan fund established pursuant to such agreement (which amount shall be determined after deduction of any costs of litigation incurred in collection of the principal or interest on loans from the fund and not already reimbursed from the fund or from such payments of principal or interest), as was determined for the Commissioner under subsection (a) of this section.

(c) Capital distribution from funds with excess liquid assets.

Upon a finding by the institution or the Commissioner prior to July 1, 1980, that the liquid assets of a student loan fund established pursuant to an agreement under this part exceed the amount required for loans or otherwise in the foreseeable future, and upon notice to such institution or to the Commissioner, as the case may be, there shall be, subject to such limitations as may be included in regulations of the Commissioner or in such agreement, a capital distribution from such fund. Such capital distribution shall be made as follows:

(1) The Commissioner shall first be paid an amount which bears the same ratio to the total to be distributed as the Federal capital contributions by the Commissioner to the student loan fund prior to such distribution bear to the sum of such Federal capital contributions and the capital contributions to the fund made by the institution.

(2) The remainder of the capital distribution shall be paid to the institution.

(Pub. L. 89–329, title IV, § 466, as added Pub. L. 92–318, title I, § 137(b), June 23, 1972, 86 Stat. 278.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1087cc of this title.

PART E.—GENERAL PROVISIONS RELATING TO STUDENT ASSISTANCE PROGRAMS

CODIFICATION

This part was originally added as part E of title IV of Pub. L. 89–329 by Pub. L. 90–575, title I, § 151, Oct. 16, 1968, 82 Stat. 1032, and subsequently redesignated part F of said title IV by Pub. L. 92–318, title I, § 137(b), June 23, 1972, 86 Stat. 273. For codification purposes, the letter designation of this part was originally changed from "E" to "D." It was subsequently rechanged to "E" when this part was redesignated "F." See Codification notes preceding sections 1087a and 1087aa of this title.

PART REFERRED TO IN OTHER SECTIONS

This part is referred to in section 1070a of this title.

Subpart 1.—General Provisions

§ 1088. Definitions.

* * * * *

(b)(1) For the purposes of this subchapter and part C of subchapter I of chapter 34 of Title 42, except subpart 5 of part A of this subchapter, except part B of this subchapter, the term "institution of higher education" includes any school of nursing; and any proprietary institution of higher education which has an agreement with the Commissioner containing such terms and conditions as the Commissioner determines to be necessary to insure that the availability of assistance to students at the school under this subchapter has not resulted, and will not result, in an increase in the tuition, fees, or other charges to such students.

(2) For the purposes of this subsection:

(A) The term "school of nursing" means a public or other nonprofit collegiate or associate degree school of nursing.

(B) The term "collegiate school of nursing" means a department, division, or other administrative unit in a college or university which provides primarily or exclusively an accredited program of education in professional nursing and allied subjects leading to the degree of bachelor of arts, bachelor of science, bachelor of nursing, or to an equivalent degree, or to a graduate degree in nursing.

(C) The term "associate degree school of nursing" means a department, division, or other administrative unit in a junior college, community college, college, or university which provides primarily or exclusively an accredited two-year program of education in professional nursing and allied subjects leading to an associate degree in nursing or to an equivalent degree.

(D) The term "accredited" when applied to any program of nurse education means a program

accredited by a recognized body or bodies approved for such purpose by the Commissioner.

(3) For the purposes of this subsection, the term "proprietary institution of higher education" means a school (A) which provides not less than a six-month program of training to prepare students for gainful employment in a recognized occupation, (B) which meets the requirements of clauses (1) and (2) of section 1141(a) of this title, (C) which does not meet the requirement of clause (4) of section 1141(a) of this title, (D) which is accredited by a nationally recognized accrediting agency or association approved by the Commissioner for this purpose, and (E) which has been in existence for at least two years. For purposes of this paragraph, the Commissioner shall publish a list of nationally recognized accrediting agencies or associations which he determines to be reliable authority as to the quality of training offered.

(c) For the purposes of this subchapter—

(1) the term "academic year" shall be defined by the Commissioner by regulations; and

(2) the term "in attendance", when applied to a student, means a student who attends an institution of higher education at least on a half-time basis, as defined by the Commissioner by regulation.

(Pub. L. 89–329, title IV, § 491, formerly § 461, as added Pub. L. 90–575, title I, § 151, Oct. 16, 1968, 82 Stat. 1032, renumbered and amended Pub. L. 92–318, title I, §§ 131(c), 137(b), title X, § 1001(c)(3), June 23, 1972, 86 Stat. 259, 272, 381.)

AMENDMENTS

1972—Subsec. (b). Pub. L. 92–318, § 131(c), added pars. (1) and (2), designated former subsec. provisions as par. (3), substituted "this subsection" for "part C of Subchapter I of chapter 34 of Title 42 and subchapter II of chapter 17 of this title", redesignated former cls. (1) to (5) as (A) to (E), and substituted in cl. (B) "clauses (1) and (2) of section 1141(a) of this title" for "section 1141(a)(1) and 1141(a)(2) of this title" and in cl. (C) "section clause (4) of section 1141(a) of this title" for "section 1141(a)(4) of this title".

Subsec. (b)(1). Pub. L. 92–318, § 1001(c)(3), inserted in introductory text "except subpart 5 of part A,"

Subsec. (c). Pub. L. 92–318, § 131(c), added subsec. (c).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 403, 423, 424 of this title; title 42 section 2753.

§§ 1088a, 1088b.

Pub. L. 92–318, title I, § 137(b), June 23, 1972, 86 Stat. 272, redesignated sections 462 and 463 of Pub. L. 89–329 as sections 492 and 493.

SECTION REFERRED TO IN OTHER SECTIONS

Section 1088b is referred to in sections 1067, 1087cc of this title; title 42 section 2754.

§ 1088c. Maintenance of effort.

An agreement between the Commissioner and an institution under part A of this subchapter or part C of subchapter I of chapter 34 of Title 42 shall provide assurance that the institution will continue to spend in its own scholarship and student-aid program, from sources other than funds received under such parts, not less than the average expenditure per year made for that purpose during the most recent period of three fiscal years preceding the effective date of the agreement, except that under special and unusual circumstances, pursuant to regulations, the Commissioner is authorized to waive the application of any provision of such an agreement which is required by this section. (Pub. L. 89–329, title IV, § 494, formerly § 464, as added Pub. L. 90–575, title I, § 152, Oct. 16, 1968, 82 Stat. 1033, renumbered and amended Pub. L. 92–318, title I, §§ 137(b), 138(a), June 23, 1972, 86 Stat. 272, 280.)

AMENDMENTS

1972—Pub. L. 92–318, § 138(a), provided that under special and unusual circumstances, pursuant to regulations, the Commissioner is authorized to waive the application of any provision of the agreement which is required by this section.

EFFECTIVE DATE OF 1972 AMENDMENT

Section 138(b) of Pub. L. 92–318 provided that: "The amendment made by subsection (a) [to this section] shall be deemed to be effective from the date of enactment of the Higher Education Act of 1965 [Nov. 8, 1965]."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1067 of this title; title 42 section 2754.

§ 1088d. Furnishing guidelines to Congressional committees.

Copies of all rules, regulations, guidelines, instructions, and application forms published or promulgated pursuant to this subchapter and part C of subchapter I of chapter 34 of Title 42 shall be provided to the Committee on Labor and Public Welfare of the Senate and the Committee on Education and Labor of the House of Representatives at least thirty days prior to their effective date. (Pub. L. 89–329, title IV, § 495, as added Pub. L. 92–318, title I, § 139, June 23, 1972, 86 Stat. 280.)

§ 1088e. Transfers between programs.

Up to 10 per centum of the allotment of an institution of higher education for a fiscal year under section 1070b–3 of this title or section 2752 of Title 42, may be transferred to, and used for the purposes of, the institution's allotment under the other section within the discretion of such institution in order to offer an arrangement of types of aid, including institutional and State aid, which best fits the needs of each individual student. The Commissioner shall have no control over such transfer, except as specifically authorized, except for the collection and dissemination of information. (Pub. L. 89–329, title IV, § 496, as added Pub. L. 92–318, title I, § 139A(a), June 23, 1972, 86 Stat. 281.)

EFFECTIVE DATE

Section 139A(b) of Pub. L. 92–318 provided that: "The amendment made by subsection (a) of this section [enacting this section] shall become effective with respect to fiscal years ending after June 30, 1972."

§ 1088f. Eligibility for student assistance.

(a) Conviction of crimes involving force, disruption, or seizure of property of educational institution.

If an institution of higher education determines, after affording notice and opportunity for hearing to an individual attending, or employed by, such institution, that such individual has been convicted by any court of record of any crime which was committed after June 30, 1972, and which involved the use of (or assistance to others in the use of) force, disruption, or the seizure of property under control of any institution of higher education to prevent officials or students in such institution from engag-

ing in their duties or pursuing their studies, and that such crime was of a serious nature and contributed to a substantial disruption of the administration of the institution with respect to which such crime was committed, then the institution which such individual attends, or is employed by, shall deny for a period of two years any further payment to, or for the direct benefit of, such individual under any of the programs authorized under this subchapter and part C of subchapter I of chapter 34 of Title 42. If an institution denies an individual assistance under the authority of the preceding sentence of this subsection, then any institution which such individual subsequently attends shall deny for the remainder of the two-year period any further payment to, or for the direct benefit of, such individual under any program authorized by this subchapter and part C of subchapter I of chapter 34 of Title 42.

(b) Refusal to obey regulations or orders; disruption of administration of institution.

If an institution of higher education determines, after affording notice and opportunity for hearing to an individual attending, or employed by, such institution, that such individual has willfully refused to obey a lawful regulation or order of such institution after June 30, 1972, and that such refusal was of a serious nature and contributed to a substantial disruption of the administration of such institution, then such institution shall deny, for a period of two years, any further payments to, or for the direct benefit of, such individual under any program authorized by this subchapter and part C of subchapter I of chapter 34 of Title 42.

(c) Other misconduct; disciplinary proceedings; freedom of expression.

(1) Nothing in this section shall be construed to prohibit any institution of higher education from refusing to award, continue, or extend any financial assistance under this subchapter and part C of subchapter I of chapter 34 of Title 42 to any individual because of any misconduct which in its judgment bears adversely on his fitness for such assistance.

(2) Nothing in this section shall be construed as limiting or prejudicing the rights and prerogatives of any institution of higher education to institute and carry out an independent, disciplinary proceeding pursuant to existing authority, practice, and law.

(3) Nothing in this section shall be construed to limit the freedom of any student to verbal expression of individual views or opinions. (Pub. L. 89–329, title IV, § 497, as added Pub. L. 92–318, title I, § 139B(a), June 23, 1972, 86 Stat. 281.)

§ 1088g. Affidavit of educational purpose required.

(a) Notwithstanding any other provision of law, no grant, loan, or loan guarantee authorized under this subchapter and part C of subchapter I of chapter 34 of Title 42 may be made unless the student to whom the grant, loan, or loan guarantee is made has filed with the institution of higher education which he intends to attend, or is attending (or in the case of a loan or loan guarantee with the lender), an affidavit stating that the money attributable to such grant, loan, or loan guarantee will be used solely for expenses related to attendance or continued attendance at such institution.

(b) Nothing in this section shall be construed to invalidate any loan guarantee made under this subchapter and part C of subchapter I of chapter 34 of Title 42. (Pub. L. 89–329, title IV, § 498, as added Pub. L. 92–318, title I, § 139C(a), June 23, 1972, 86 Stat. 282.)

EFFECTIVE DATE

Section 139C(b) of Pub. L. 92–318 provided that: "The amendment made by subsection (a) of this section [enacting this section] shall become effective after the sixtieth day after the date of enactment of this Act [June 23, 1972]."

Subpart 2—Advisory Council on Financial Aid to Students

§ 1089. Advisory Council on Financial Aid to Students; establishment; membership; functions.

Pub. L. 92–318, title I, § 137(b), June 23, 1972, 86 Stat. 272, redesignated section 469 of Pub. L. 89–329 as section 499.

TERMINATION OF ADVISORY COUNCILS

Advisory Councils in existence on January 5, 1973, to terminate not later than the expiration of the two-year period following January 5, 1973, unless, in the case of a Council established by the President or an officer of the Federal Government, such Council is renewed by appropriate action prior to the expiration of such two-year period, or in the case of a Council established by the Congress, its duration is otherwise provided by law, see sections 3(2) and 14 of Pub. L. 92–463, Oct. 6, 1972, 86 Stat. 770, 776, set out in the Appendix to Title 5, Government Organization and Employees.

SUBCHAPTER V.—EDUCATION PROFESSIONS DEVELOPMENT

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in section 1135b–3 of this title.

PART A.—GENERAL PROVISIONS

§ 1091. Statement of purpose; authorization of appropriations.

(a) The purpose of this subchapter is to improve the quality of teaching and to help meet critical shortages of adequately trained educational personnel by (1) developing information on the actual needs for educational personnel, both present and long range; (2) providing a broad range of high quality training and retraining opportunities, responsive to changing manpower needs; (3) attracting a greater number of qualified persons into the teaching profession; (4) attracting persons who can stimulate creativity in the arts and other skills to undertake short-term or long-term assignments in education; and (5) helping to make educational personnel training programs more responsive to the needs of the schools and colleges.

(b) For the purpose of carrying out the provisions of this subchapter, there are authorized to be appropriated $200,000,000 for the fiscal year ending June 30, 1973, $300,000,000 for the fiscal year ending June 30, 1974, and $450,000,000 for the fiscal year ending June 30, 1975, of which—

(1) not less than $500,000 shall be for the purposes of section 1091c of this title;

(2) not less than 25 per centum or $37,500,000, whichever is greater, shall be for the purposes of subpart 1 of part B;

(3) not less than 5 per centum shall be for the purposes of part C;

(4) not less than 5 per centum shall be for the purposes of part D;

(5) not less than 5 per centum shall be for the purposes of part E;

(6) not less than 10 per centum shall be for the purposes of part F; and

(7) not less than 5 per centum of the amounts available for the purposes of part C or part D shall be used for the training of teachers for service in programs for children with limited English speaking ability.

(As amended Pub. L. 92–318, title I, § 141(b)(1), June 23, 1972, 86 Stat. 285.)

AMENDMENTS

1972—Pub. L. 92–318 designated existing provisions as subsec. (a) and added subsec. (b).

EFFECTIVE DATE OF 1972 AMENDMENT

Section 141(b)(2) of Pub. L. 92–318 provided that: "The amendments made by paragraph (1) [to this section] shall be effective after, and only with respect to appropriations for fiscal years beginning after, June 30, 1972."

§ 1091a. National Advisory Council on Education Professions Development.

* * * * *

(f) Repealed. Pub. L. 92–318, title I, § 141(c)(1)(A), June 23, 1972, 86 Stat. 285.

(As amended Pub. L. 92–318, title I, § 141(c)(1)(A), June 23, 1972, 86 Stat. 285.)

AMENDMENTS

1972—Subsec. (f). Pub. L. 92–318 struck out appropriations authorization of $100,000, $200,000, $200,000, and $200,000 for fiscal years ending June 30, 1968, 1969, 1970, and 1971, respectively.

EFFECTIVE DATE OF 1972 AMENDMENT

Section 141(c)(1) of Pub. L. 92–318 provided that amendment of sections 1101 and 1108 and repeal of sections 1091a(f), 1091c(b), 1118, 1119a, 1119b–2, and 1119c–4 of this title shall be effective on and after July 1, 1972.

TERMINATION OF ADVISORY COUNCILS

Advisory Councils in existence on January 5, 1973, to terminate not later than the expiration of the two-year period following January 5, 1973, unless, in the case of a Council established by the President or an officer of the Federal Government, such Council is renewed by appropriate action prior to the expiration of such two-year period, or in the case of a Council established by the Congress, its duration is otherwise provided by law, see sections 3(2) and 14 of Pub. L. 92–463, Oct. 6, 1972, 86 Stat. 770, 776, set out in the Appendix to Title 5, Government Organization and Employees.

ESTIMATES FOR EXECUTION OF SECTION

Section 141(c)(4) of Pub. L. 92–318, as amended by section 301(a)(1) of Pub. L. 92–318, provided that: "The Dartment of Health, Education, and Welfare shall, under the authority of section 400(c) and part D of the General Education Provisions Act [sections 1221(c) and 1233 et seq. of this title] submit to the Congress an estimate of the sums necessary to carry out section 502 of such title V [this section]."

§ 1091b. Appraising education personnel needs.

(a) Scope of appraisal; consultation with and utilization of information of public and private agencies.

The Commissioner shall from time to time appraise the Nation's existing and future personnel needs in the field of education, including preschool programs, elementary and secondary education, vocational and technical education, adult education, and higher education, including the need to provide such programs and education to Indians, and the adequacy of the Nation's efforts to meet these needs. In developing information relating to educational personnel needs, the Commissioner shall consult with, and make maximum utilization of statistical and other related information of, the Department of Labor, the National Science Foundation, the National Foundation on the Arts and the Humanities, State educational agencies, State employment security agencies, and other appropriate public and private agencies.

* * * * *

(As amended Pub. L. 92–318, title IV, § 451(a), June 23, 1972, 86 Stat. 344.)

AMENDMENTS

1972—Subsec. (a). Pub. L. 92–318 extended the scope of appraisal to include the need to provide programs and education to Indians.

§ 1091c. Attracting qualified persons to the field of education.

* * * * *

(b) Repealed. Pub. L. 92–318, title I, § 141(c)(1)(B), June 23, 1972, 86 Stat. 285.

(As amended Pub. L. 92–318, title I, § 141(a)(1)(B), (c)(1)(B), June 23, 1972, 86 Stat. 284, 285.)

AMENDMENTS

1972—Subsec. (b). Pub. L. 92–318 authorized appropriation of $5,000,000 for fiscal year ending June 30, 1972, and struck out subsec. (b) appropriations authorization of $2,500,000, $5,000,000, $5,000,000, and $5,000,000 for fiscal years ending June 30, 1969, 1970, 1971, and 1972, respectively.

EFFECTIVE DATE OF 1972 AMENDMENT

Section 141(a)(2) of Pub. L. 92–318 provided that: "The amendments made by paragraph (1) [to sections 1091c(b), 1101(b), 1108(b), 1118, 1119a, and 1119b–2 of this title] shall be effective after June 30, 1971."

Amendment of section by section 141(c)(1)(B) of Pub. L. 92–318 effective on and after July 1, 1972, see section 141(c)(1) of Pub. L. 92–318, set out as a note under section 1091a of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1091 of this title.

PART B.—ATTRACTING AND QUALIFYING TEACHERS

Subpart 1—Teacher Corps

SUBPART REFERRED TO IN OTHER SECTIONS

This subpart is referred to in section 1091 of this title; title 42 section 2943.

§ 1101. Statement of purpose.

The purpose of this subpart is to strengthen the educational opportunities available to children in areas having concentrations of low-income families and to encourage colleges and universities to broaden their programs of teacher preparation and to encourage institutions of higher education and local educational agencies to improve programs of training and retraining for teachers and teacher aides by—

(1) attracting and training qualified teachers who will be made available to local educational agencies for teaching in such areas;

(2) attracting and training inexperienced teacher-interns who will be made available for teaching and inservice training to local educational agencies in such areas in teams led by an experienced teacher;

(3) attracting volunteers to serve as part-time tutors or full-time instructional assistants in programs carried out by local educational agencies and institutions of higher education serving such areas;

(4) attracting and training educational personnel to provide relevant remedial, basic, and secondary educational training, including literacy and communications skills, for juvenile delinquents, youth offenders, and adult criminal offenders; and

(5) supporting demonstration projects for retraining experienced teachers and teacher aides serving in local educational agencies.

(As amended Pub. L. 92–318, title I, § 141(a)(1)(A), (c)(1)(C), June 23, 1972, 86 Stat. 284, 285; Pub. L. 93–380, title VIII, § 835(a)(1), Aug. 21, 1974, 88 Stat. 605.)

AMENDMENTS

1974—Pub. L. 93–380 inserted as an additional purpose of this subpart the encouragement of institutions of higher education and local educational agencies to improve programs of training and retraining for teachers and teacher aides, and added par. (5).

1972—Pub. L. 92–318 authorized subsec. (b) appropriations authorization of $100,000,000 for fiscal year ending June 30, 1972, deleted subsec. (a) designation, and struck out subsec. (b) appropriations authorization of $36,100,000; $64,715,000; $33,000,000; $46,000,000; $80,000,000; $100,000,000; and $100,000,000 for fiscal years ending June 30, 1966, through 1972, respectively.

EFFECTIVE DATE OF 1974 AMENDMENT

Section 835(b) of Pub. L. 93–380 provided that: "The amendments made by subsection (a) [to this section and sections 1103(a)(1), (c)(2) and 1104(a)(2) of this title] shall be effective on and after July 1, 1974."

EFFECTIVE DATE OF 1972 AMENDMENT

Amendment by section 141(a)(1)(A) of Pub. L. 92–318 effective after June 30, 1971, see section 141(a)(2) of Pub. L. 92–318, set out as a note under section 1091c of this title.

Amendment by section 141(c)(1)(C) of Pub. L. 92–318 effective on and after July 1, 1972, see section 141(c)(1) of Pub. L. 92–318, set out as a note under section 1091a of this title.

§ 1102. Establishment; compensation and duties of Director and Deputy Director; delegation of functions.

In order to carry out the purposes of this subpart, there is hereby established in the Office of Education a Teacher Corps. The Teacher Corps shall be headed by a Director who shall be compensated at the rate prescribed for grade 17 of the General Schedule set forth in section 5332 of Title 5, and a Deputy Director who shall be compensated at the rate prescribed for grade 16 of such General Schedule. The Director and the Deputy Director shall perform such duties as are delegated to them by the Commissioner, except that (1) the Commissioner may delegate his functions under this subpart only to the Director, and (2) the Director and Deputy Director shall not be given any function authorized by law other than that granted by this subpart. (As amended Pub. L. 92–318, title I, § 142, June 23, 1972, 86 Stat. 286.)

CODIFICATION

The words "the General Schedule set forth in section 5332 of Title 5" were substituted for "the General Schedule of the Classification Act of 1949" on authority of section 7(b) of Pub. L. 89–554, Sept. 6, 1966, 80 Stat. 631, section 1 of which enacted Title 5, Government Organization and employees.

AMENDMENTS

1972—Pub. L. 92–318 provided that the Commissioner may delegate his functions under this subpart only to the Director and the Director and Deputy Director shall not be given any function authorized by law other than that granted by this subpart.

§ 1103. Teacher Corps program.

(a) Recruitment, enrollment, and training of members; assignment of teaching teams to local educational agencies; payments to such agencies for compensation of members assigned to them; technical assistance; disadvantaged area teaching opportunities and needs; voluntary services and transfers of property.

For the purpose of carrying out this subpart, the Commissioner is authorized to—

(1) enter into contracts or other arrangements with institutions of higher education or local educational agencies under which they will recruit, select, and enroll in the Teacher Corps for periods of up to two years, experienced teachers, teacher aides, persons who have a bachelor's degree or its equivalent, and persons who have successfully completed two years of a program for which credit is given toward a baccalaureate degree, and, for such periods as the Commissioner may prescribe by regulation, persons who volunteer to serve as part-time tutors or full-time instructional assistants;

* * * * *

(c) Allocation and reallocation of teachers among States.

* * * * *

(2) Not to exceed 5 per centum of the number of members of the Teacher Corps who are available shall be allocated to Puerto Rico, the Virgin Islands, Guam, American Samoa and the Trust Territory of the Pacific Islands and not to exceed 5 per centum of such members shall be allocated to the elementary and secondary schools operated for Indian children by the Department of the Interior, according to their respective needs. The remainder of such number of Teacher Corps members shall be allocated among the States so that the number of members available to any State shall bear the same ratio to the number being allocated as the number of children enrolled in the public and private elementary and secondary schools of that State bears to the total number of children so enrolled in such schools in all of the States. The number of children so enrolled shall be determined by the Commissioner on the basis of the most recent satisfactory data available to him. For purposes of this subsection, the term "State" shall not include Puerto Rico, the Virgin Islands, Guam, American Samoa, or the Trust Territory of the Pacific Islands.

* * * * *

(As amended Pub. L. 93–380, title VIII, § 835(a)(2), (3), Aug. 21, 1974, 88 Stat. 605.)

AMENDMENTS

1974—Subsec. (a)(1). Pub. L. 93–380, § 835(a)(2), provided for recruitment, selection, and enrollment of teacher aides.

Subsec. (c)(2). Pub. L. 93–380, § 835(a)(3), increased rate from "3" to "5" per centum, provided for allocation

of teachers to Guam, American Samoa, and Trust Territory of the Pacific Islands, and excluded such territories from the definition of term "State".

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment by Pub. L. 93–380 effective on and after July 1, 1974, see section 835(b) of Pub. L. 93–380, set out as a note under section 1101 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1104, 1106 of this title.

§ 1104. Compensation of members.

(a) Rates.

An arrangement made with a local educational agency pursuant to paragraph (3) of section 1103(a) of this title or an arrangement with a local educational agency or institution of higher education pursuant to paragraph (5) of section 1103(a) of this title, or an arrangement with any agency pursuant to paragraph (6) of section 1103(a) of this title, shall provide for compensation by such agency of Teacher Corps members during the period of their assignment to it at the following rates:

* * * * *

(2) a teacher intern shall be compensated at such rates as the Commissioner may determine to be consistent with the nature of the program and with prevailing practices under comparable federally supported programs or local projects, not to exceed $150 per week plus $15 per week for each dependent; and

* * * * *

(As amended Pub. L. 93–380, title VIII, § 835(a)(4), Aug. 21, 1974, 88 Stat. 605.)

AMENDMENTS

1974—Subsec. (a)(2). Pub. L. 93–380 substituted provisions for compensation of teacher interns at rates consistent with the nature of the program and with prevailing practices under comparable federally supported programs or local projects, not exceeding $150 per week plus $15 weekly for each dependent for prior provisions for rates not exceeding lowest rate paid by local educational agency for teaching full time in the school system and grade to which assigned, or $90 per week plus $15 per week for each dependent, whichever is less.

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment by Pub. L. 93–380 effective on and after July 1, 1974, see section 835(b) of Pub. L. 93–380, set out as a note under section 1101 of this title.

Subpart 2—Attracting and Qualifying Teachers To Meet Critical Teacher Shortages

§ 1108. Program authorization.

The Commissioner shall carry out a program for making grants to States to enable them to support the efforts of local communities experiencing critical teacher shortages, or the efforts of State educational agencies, (1) to attract to teaching persons in the community who have been otherwise engaged and to provide them, through short-term intensive training programs and subsequent in-service training, with the qualifications necessary for a successful career in teaching, (2) to obtain the services of teacher aides and provide them with the necessary training with a view to increasing the effectiveness of classroom teachers, (3) to encourage volunteers (including high school and college students) for service as part-time tutors or full-time instructional assistants for educationally disadvantaged children, (4) to compensate such tutors and instructional assistants at such rates as the Commissioner may determine to be consistent with prevailing practices under comparable federally supported work-study programs, and (5) to provide necessary training to teachers to enable them to teach other grades or other subjects in which such agencies have a teacher shortage. (As amended Pub. L. 92–318, title I, §§ 141(a)(1)(B), (c)(1)(D), (2)(A), 143(a)(1), June 23, 1972, 86 Stat. 284–286.)

AMENDMENTS

1972—Pub. L. 92–318 authorized subsec. (b) appropriations authorization of $65,000,000 for fiscal year ending June 30, 1972, deleted subsec. (a) designation, and struck out subsec. (b) appropriations authorization of $50,000,000; $65,000,000; $65,000,000; and $65,000,000 for fiscal years ending June 30, 1969, 1970, 1971, and 1972, respectively; struck out "during the fiscal year ending June 30, 1969, and the succeeding fiscal year," after "shall carry out"; and added cls. (3), (4), and (5).

EFFECTIVE DATE OF 1972 AMENDMENT

Amendment by section 141(a)(1)(B) of Pub. L. 92–318 effective after June 30, 1971, see section 141(a)(2) of Pub. L. 92–318, set out as a note under section 1091c of this title.

Amendment by section 141(c)(1)(D) of Pub. L. 92–318 effective on and after July 1, 1972, see section 141(c)(1) of Pub. L. 92–318, set out as a note under section 1091a of this title.

Section 143(b) of Pub. L. 92–318 provided that: "The amendments made by subsection (a) [to this section and section 1110(a)(2), (3) of this title] shall be effective after, and only with respect to appropriations for fiscal years beginning after, June 30, 1972."

§ 1109. Allotments to States; reallotments.

(a) From the amount available for grants under this subpart for any fiscal year, the Commissioner shall reserve such amount, but not in excess of 3 per centum thereof, as he may determine and shall allot such amount among Puerto Rico, Guam, American Samoa, the Virgin Islands, the Canal Zone, and the Trust Territory of the Pacific Islands according to their respective needs for assistance under this subpart. From the remainder of such sums, the Commissioner shall apportion $100,000 to each State, and shall then apportion to each State such part of the amount remaining which bears the same ratio to the total of such amount as the number of children enrolled in the public and private elementary and secondary schools of that State bears to the total number of children so enrolled in such schools in all of the States. The number of children so enrolled shall be determined by the Commissioner on the basis of the most recent satisfactory data available to him. For purposes of this subsection, the term "State" shall not include the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, the Canal Zone, and the Trust Territory of the Pacific Islands.

* * * * *

(As amended Pub. L. 92–318, title I, § 141(c)(2)(B), June 23, 1972, 86 Stat. 285.)

AMENDMENTS

1972—Subsec. (a). Pub. L. 92–318 substituted "From the amount available for grants under this subpart for any fiscal year" for "From the sums appropriated pursuant to section 1108(a) of this title".

EFFECTIVE DATE OF 1972 AMENDMENT

Section 141(c)(2)(B) of Pub. L. 92–318 provided in part that amendment of section by Pub. L. 92–318 shall be effective on and after July 1, 1972.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1110a of this title.

§ 1110. State plans.

(a) Terms and conditions.

Any State which desires to receive grants under this subpart shall submit to the Commissioner, through its State educational agency, a State plan, in such detail as the Commissioner deems necessary, which—

* * * * *

(2) sets forth a program under which funds paid to the State from its allotment under section 520 will be expended solely for (A) programs of local educational agencies or of the State educational agency, or both, to attract to teaching, persons in the community who have been otherwise engaged and to provide short-term intensive training and subsequent in-service training to qualify such persons for teaching, (B) programs of such agencies to obtain the services of teacher aides and to provide them with the preservice or in-service training they need to perform their duties as teacher aides, (C) programs of such agencies to employ high school and college students as tutors or instructional assistants for educationally disadvantaged children, (D) programs of such agencies to compensate such tutors and instructional assistants at such rates as the Commissioner may determine to be consistent with prevailing practices under comparable federally supported work-study programs, (E) programs of such agencies to provide necessary training to teachers to enable them to teach other grades or other subjects in which such agencies have a teacher shortage, and (F) administration of the State plan, except that the amount used for administration of the State plan for any fiscal year shall not exceed an amount equal to 5 per centum of the amount paid to the State under this subpart for that year or, $20,000, whichever is greater;

(3) with respect to so much of the State program as is to be carried out by local educational agencies, (A) provides assurance that every local educational agency whose application for funds under the plan is denied will be given an opportunity for a fair hearing before the State educational agency and (B) sets forth the policies and procedures to be followed in allocating Federal funds to local educational agencies in the State, which policies and procedures shall insure that such funds will be allocated to local educational agencies having the most urgent need for teachers and teacher aides or for the retraining of teachers;

* * * * *

(5) provides assurance that no person will be denied admission to training programs carried on under this subpart because he is teaching, or is preparing to teach or serve as a teacher aide in a private school;

(6) sets forth policies and procedures designed to assure that Federal funds made available under this subpart for any fiscal year will be so used as to supplement, and not supplant, funds which are available from State or local sources for purposes for which grants may be made under this subpart;

(7) sets forth such fiscal control and fund accounting procedures as may be necessary to assure proper disbursement of, and accounting for, Federal funds paid to the State (including any such funds paid by the State to any other public agency) under this subpart; and

(8) provides for making such reports, in such form and containing such information, as the Commissioner may reasonably require to carry out his functions under this subpart, and for keeping such records and for affording such access thereto as the Commissioner may find necessary to assure the correctness and verification of such reports.

* * * * *

(As amended Pub. L. 92–318, title I, §§ 143(a)(2)(3), 144(a), 145(a), 146(a), June 23, 1972, 86 Stat. 286, 287.)

AMENDMENTS

1972—Subsec. (a)(2)(C)–(F). Pub. L. 92–318, §§ 143(a)(2), 144(a), added cls. (C)–(E), and redesignated former cl. (C) as (F), and substituted in cl. (F) "amount equal to 5 per centum of the amount paid to the State under this subpart for that year or, $20,000, whichever is greater" for "amount equal to 3 per centum of the amount paid to the State under this subpart for that year".

Subsec. (a)(3)(B). Pub. L. 92–318, § 143(a)(3), included retraining of teachers.

Subsec. (a)(5)–(9). Pub. L. 92–318, §§ 145(a), 146(a), struck out cl. (5) which provided assurances that not more than one-third of the sums expended under this chapter will be used to support programs described in par. (2)(B), and redesignated former cls. (6)–(9) as (5)–(8); and substituted in cl. (5) "because he is teaching, or is preparing to teach" for "he is preparing to teach".

EFFECTIVE DATE OF 1972 AMENDMENT

Amendment of subsec. (a)(2), (3) by section 143(a)(2), (3) of Pub. L. 92–318 effective after, and only with respect to appropriations for fiscal years beginning after, June 30, 1972, see section 143(b) of Pub. L. 92–318, set out as a note under section 1108 of this title.

Section 144(b) of Pub. L. 92–318 provided that: "The amendments made by subsection (a) [to subsec. (a)(2)(F) of this section] shall be effective after, and only with respect to appropriations for fiscal years beginning after, June 30, 1972."

Section 145(b) of Pub. L. 92–318 provided that: "The amendments made by subsection (a) [to subsec. (a)(5)–(9) of this section] shall be effective after, and only with respect to appropriations for fiscal years beginning after, June 30, 1972."

Section 146(b) of Pub. L. 92–318 provided that: "The amendment made by subsection (a) [inserting reference to teaching in subsec. (a)(5) of this section] shall be effective after, and only with respect to appropriations for fiscal years beginning after, June 30, 1972."

PART C.—FELLOWSHIPS FOR TEACHERS AND RELATED EDUCATIONAL PERSONNEL

PART REFERRED TO IN OTHER SECTIONS

This part is referred to in section 1091 of this title.

§ 1111. Congressional declaration of policy and statement of purpose; definitions.

The Congress hereby declares it to be the policy of the United States to improve the quality of edu-

cation offered by the schools of the Nation by improving the quality of the education of persons who are pursuing or who plan to pursue a career in elementary and secondary education or postsecondary vocational education. The purpose of this part is to carry out this policy by awarding fellowships for graduate study at institutions of higher education and by developing or strengthening programs for the education of teachers and related educational personnel in institutions of higher education. For the purposes of this part the term "elementary and secondary education" includes preschool and adult and vocational education, and the term "career in elementary and secondary education or postsecondary vocational education" means a career of teaching in elementary or secondary schools (including teaching in preschool and adult and vocational education programs, and including teaching children of limited English-speaking ability) or in postsecondary vocational schools, a career of teaching, guiding, or supervising such teachers or persons who plan to become such teachers, a career in the administration of such schools, or a career in fields which are directly related to teaching in such schools, such as library science, school nursing, school social work, guidance and counseling, educational media (including educational and instructional television and radio), child development, and special education for handicapped children, and for gifted and talented children. (As amended Pub. L. 92–318, title I, § 146A, June 23, 1972, 86 Stat. 287.)

AMENDMENTS

1972—Pub. L. 92–318 inserted after "such as library science," the words "school nursing,".

§ 1115. Stipends.

* * * * *

(b) The Commissioner shall (in addition to stipends paid to persons under subsection (a) of this section) pay to the institution of higher education at which such person is pursuing his course of study such amount as the Commissioner may determine to be consistent with prevailing practices under comparable federally supported programs. (As amended Pub. L. 92–318, title I, § 141(c)(3), June 23, 1972, 86 Stat. 285.)

AMENDMENTS

1972—Subsec. (b). Pub. L. 92–318 struck out after "federally supported programs" the clause ", except that such amount shall not exceed $3,500 per academic year for each such person".

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1117 of this title.

§ 1116. Prohibition of award of fellowships for study at school or department of divinity.

No fellowships shall be awarded under this part for study at a school or department of divinity. (As amended Pub. L. 92–318, title I, § 131(d)(2)(C), June 23, 1972, 86 Stat. 260.)

AMENDMENTS

1972—Pub. L. 92–318 struck out definition of "school or department of divinity", now covered by section 1141(*l*) of this title.

§ 1118. Repealed. Pub. L. 92–318, title I, § 141(c)(1)(E), June 23, 1972, 86 Stat. 285.

Section, Pub. L. 89–329, title V, § 528, Nov. 8, 1965, 79 Stat. 1260; Pub. L. 90–35, § 5(g), June 29, 1967, 81 Stat. 91; Pub. L. 90–247; title VII, § 704(c)(1), Jan. 2, 1968, 81 Stat. 820; Pub. L. 90–575, title II, § 231(a), (b)(2), Oct. 16, 1968, 82 Stat. 1039; Pub. L. 92–318, title I, § 141(a)(1)(B), June 23, 1972, 86 Stat. 284, authorized appropriations of $40,000,000; $160,000,000; $285,000,000; $205,000,000; $250,000,000; $250,000,000; and $250,000,000 for fiscal years ending June 30, 1966, through 1972, respectively, and such sums for the two succeeding fiscal years as may be necessary to enable persons who were awarded fellowships prior to July 1, 1972, to complete their study under the fellowships.

EFFECTIVE DATE OF REPEAL

Repeal by section 141(c)(1)(E) of Pub. L. 92–318 effective on and after July 1, 1972, see section 141(c)(1) of Pub. L. 92–318, set out as a note under section 1091a of this title.

PART D.—TRAINING PROGRAMS FOR EDUCATION PERSONNEL OTHER THAN HIGHER EDUCATION PERSONNEL

PART REFERRED TO IN OTHER SECTIONS

This part is referred to in section 1091 of this title.

§ 1119. Advance training and retraining.

* * * * *

(b) Classes of programs or projects.

Programs or projects under this section may include, among others—

* * * * *

(10) programs or projects to prepare artists, craftsmen, scientists, artisans, or persons from other professions or vocations, or homemakers to teach or otherwise assist in programs or projects of education on a long-term, short-term, or part-time basis;

(11) programs or projects (including cooperative arrangements or consortia between institutions of higher education, junior and community colleges, or between such institutions and State or local educational agencies and nonprofit education associations) for the improvement of undergraduate programs for preparing educational personnel, including design, development and evaluation of exemplary undergraduate training programs, introduction of high quality and more effective curricula and curricular materials, and the provision of increased opportunities for practical teaching experience for prospective teachers in elementary and secondary schools; and

(12) programs and projects designed to meet the need for the training of teachers for participation in education programs for migratory children of migratory agricultural workers, including teacher exchange programs.

(c) Limitation on use of funds.

Grants or contracts under this section may provide for use of funds received thereunder only to pay the cost of—

(1) short-term or regular-session institutes;

(2) other preservice and inservice training programs or projects designed to improve the qualifications of persons entering and reentering the field of elementary and secondary education or postsecondary vocational education, except that funds may not be used for seminars, symposia, workshops

or conferences unless these are part of a continuing program of inservice or preservice training;

(3) projects or programs to improve undergraduate or other programs for training educational personnel; or

(4) such activities as may be necessary to carry out the purposes of clause (12) of subsection (b) of this section, to the extent that such activities are not inconsistent with the other provisions of this part.

* * * * *

(As amended Pub. L. 92–318, title I, §§ 147(a), 148(a), June 23, 1972, 86 Stat. 287.)

AMENDMENTS

1972—Subsec. (b)(11). Pub. L. 92–318, § 147(a)(1), added cl. (11).

Subsec. (b)(12). Pub. L. 92–318, § 148(a)(1), added cl. (12).

Subsec. (c)(3). Pub. L. 92–318, § 147(a)(2), added cl. (3).

Subsec. (c)(4). Pub. L. 92–318, § 148(a)(2), added cl. (4).

EFFECTIVE DATE OF 1972 AMENDMENT

Section 147(b) of Pub. L. 92–318 provided that: "The amendments made by subsection (a) [enacting subsecs. (b)(11) and (c)(3) of this section] shall be effective after, and only with respect to appropriations for fiscal years beginning after June 30, 1972."

Section 148(b) of Pub. L. 92–318 provided that: "The amendments made by subsection (a) [enacting subsecs. (b)(12) and (c)(4) of this section] shall be effective after June 30, 1972."

§ 1119a. Teachers for Indian children; Indians, preference.

Of the sums made available for the purposes of this part, not less than 5 per centum shall be used for grants to, and contracts with, institutions of higher education and other public and private nonprofit agencies and organizations for the purpose of preparing persons to serve as teachers of children living on reservations serviced by elementary and secondary schools for Indian children operated or supported by the Department of the Interior, including public and private schools operated by Indian tribes and by nonprofit institutions and organizations of Indian tribes. In carrying out the provisions of this section preference shall be given to the training of Indians. (Pub. L. 89–329, title V, § 532, as added Pub. L. 92–318, title IV, § 451(b), June 23, 1972, 86 Stat. 344.)

CODIFICATION

Another section 1119a, Pub. L. 89–329, title V, § 532, as added Pub. L. 90–35, § 6, June 29, 1967, 81 Stat. 92, and amended Pub. L. 90–575, title II, § 231(a), Oct. 16, 1968, 82 Stat. 1039; Pub. L. 92–318, title I, § 141(a)(1)(B), June 23, 1972, 86 Stat. 284, which authorized appropriations of $70,000,000; $90,000,000; $90,000,000; and $90,000,000 for fiscal years ending June 30, 1969, 1970, 1971, and 1972 was repealed by section 141(c)(1)(F) of Pub. L. 92–318, effective on and after July 1, 1972.

EFFECTIVE DATE OF REPEAL

Repeal of former section 1119a of this title by section 141(c)(1)(F) of Pub. L. 92–318 effective on and after July 1, 1972, see section 141(c)(1) of Pub. L. 92–318, set out as a note under section 1091a of this title.

PART E.—TRAINING PROGRAMS FOR HIGHER EDUCATION PERSONNEL

PART REFERRED TO IN OTHER SECTIONS

This part is referred to in section 1091 of this title.

§ 1119b–2. Repealed. Pub. L. 92–318, title I, § 141(c)(1)(G), June 23, 1972, 86 Stat. 285.

Section, Pub. L. 89–329, title V, § 543, as added Pub. L. 90–35, § 6, June 29, 1967, 81 Stat. 93, and amended Pub. L. 90–575, title II, § 231(a), Oct. 16, 1968, 82 Stat. 1039; Pub. L. 92–318, title I, § 141(a)(1)(B), June 23, 1972, 86 Stat. 284, authorized appropriations of $21,500,000; $36,000,000; $36,000,000; and $36,000,000 for fiscal years ending June 30, 1969, 1970, 1971, and 1972, respectively.

EFFECTIVE DATE OF REPEAL

Repeal of section by section 141(c)(1)(G) of Pub. L. 92–318 effective on and after July 1, 1972, see section 141(c)(1) of Pub. L. 92–318, set out as a note under section 1091a of this title.

PART F.—TRAINING AND DEVELOPMENT PROGRAMS FOR VOCATIONAL EDUCATION PERSONNEL

PART REFERRED TO IN OTHER SECTIONS

This part is referred to in section 1091 of this title.

§ 1119c–4. Repealed. Pub. L. 92–318, title I, § 141(c)(1)(H), June 23, 1972, 86 Stat. 285.

Section, Pub. L. 89–329, title V, § 555, as added Pub. L. 90–576, title II, § 201, Oct. 16, 1968, 82 Stat. 1094, and amended Pub. L. 91–230, title VII, § 708, Apr. 13, 1970, 84 Stat. 189, authorized appropriations of $25,000,000; $35,000,000; $40,000,000; and $45,000,000 for fiscal years ending June 30, 1969, 1970, 1971, and 1972, respectively.

EFFECTIVE DATE OF REPEAL

Repeal of section by section 141(c)(1)(H) of Pub. L. 92–318 effective on and after July 1, 1972, see section 141(c)(1) of Pub. L. 92–318, set out as a note under section 1091a of this title.

SUBCHAPTER VI.—FINANCIAL ASSISTANCE FOR THE IMPROVEMENT OF UNDERGRADUATE INSTRUCTION

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 1055, 1142a of this title; title 40 App. section 214.

PART A.—EQUIPMENT GRANTS

§ 1121. Statement of purpose; authorization of appropriations.

* * * * *

(b) There are hereby authorized to be appropriated $35,000,000 for the fiscal year ending June 30, 1966, $50,000,000 for the fiscal year ending June 30, 1967, $60,000,000 for the fiscal year ending June 30, 1968, $13,000,000 for the fiscal year ending June 30, 1969, and $60,000,000 for each of the succeeding fiscal years ending prior to July 1, 1975, to enable the Commissioner to make grants to institutions of higher education and combinations of institutions of higher education pursuant to this part for the acquisition of equipment and for minor remodeling described in section 1123(2)(B) of this title.

(c) There are also authorized to be appropriated $2,500,000 for the fiscal year ending June 30, 1966, $10,000,000 for the fiscal year ending June 30, 1967, and for the succeeding fiscal year, $1,500,000 for the fiscal year ending June 30, 1969, and $10,000,000 for each of the succeeding fiscal years ending prior to July 1, 1975, to enable the Commissioner to make grants to institutions of higher education and combinations of institutions of higher education pursuant to this part for the acquisition of television equipment and for minor remodeling described in section 1123(2)(B) of this title. (As amended Pub. L. 92–318, title I, § 151(a), June 23, 1972, 86 Stat. 288.)

AMENDMENTS

1972—Subsecs. (b), (c). Pub. L. 92–318 substituted "succeeding fiscal years ending prior to July 1, 1975" for "two succeeding fiscal years".

EFFECTIVE DATE OF 1972 AMENDMENT

Section 151(b) of Pub. L. 92–318 provided that: "The amendments made by subsection (a) of this section [to subsecs. (b) and (c) of this section] shall be effective after June 30, 1971."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1122 of this title.

§ 1123. State plans; submission to Commissioner through designated State agencies; required provisions; approval.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1142a of this title.

§ 1129. Prohibition against making grants for equipment or materials to be used for sectarian instruction or religious worship.

No grant may be made under this part for equipment or materials to be used for sectarian instruction or religious worship, or primarily in connection with any part of the program of a school or department of divinity. (As amended Pub. L. 92–318, title I, § 131(d)(2)(D), June 23, 1972, 86 Stat. 260.)

AMENDMENTS

1972—Pub. L. 92–318 struck out definition of "school or department of divinity", now covered by section 1141(*l*) of this title.

SUBCHAPTER VII.—CONSTRUCTION OF ACADEMIC FACILITIES [NEW]

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 1055, 1142a of this title; title 40 App. section 214.

PART A.—GRANTS FOR CONSTRUCTION OF UNDERGRADUATE ACADEMIC FACILITIES

PART REFERRED TO IN OTHER SECTIONS

This part is referred to in sections 1132e, 1132e–1 of this title.

§ 1132a. Authorization of appropriations.

(a) The Commissioner shall carry out a program of grants to institutions of higher education for the construction of academic facilities in accordance with this part.

(b) For the purpose of making grants under this part, there are hereby authorized to be appropriated $50,000,000, for the fiscal year ending June 30, 1972, $200,000,000 for the fiscal year ending June 30, 1973, and $300,000,000 for each of the fiscal years ending June 30, 1974, and June 30, 1975.

(c) Of the sums appropriated pursuant to subsection (b) of this section, 24 percentum shall be reserved by the Commissioner and allotted among the States under section 1132a–1 of this title. The remainder of such sums shall be available for allotment among the States under section 1132a–2 of this title. (Pub. L. 89–329, title VII, § 701, as added Pub. L. 92–318, title I, § 161(a), June 23, 1972, 86 Stat. 288.)

CONTINUATION OF CHAPTER 21 PROGRAMS

Section 161(b)(1) of Pub. L. 92–318 provided that: "The programs authorized by title VII of the Higher Education Act of 1965 [this subchapter] shall be deemed to be a continuation of the comparable programs authorized by the Higher Education Facilities Act of 1963 [former chapter 21 of this title]."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1132a–1, 1132a–2 of this title.

§ 1132a–1. Allotments for public community colleges and technical institutes.

(a) Sums available for allotments.

Sums reserved pursuant to the first sentence of section 1132a(c) of this title shall be available for allotments to States for providing academic facilities for public community colleges and public technical institutes.

(b) Basis of computation; minimum amount.

From the sums available for any fiscal year for the purposes of this section, the Commissioner shall allot to each State an amount which bears the same ratio to such sums as the product of—

(1) the number of high school graduates of the State, and

(2) the State's allotment ratio,

bears to the sum of the corresponding products for all the States. The amount allotted to any State under the preceding sentence for any fiscal year which is less than $50,000 shall be increased to $50,000, the total of increases thereby required being derived by proportionately reducing the amount allotted to each of the remaining States under the preceding sentence, but with such adjustments as may be necessary to prevent the allotment of any such remaining States from being thereby reduced to less than $50,000.

(c) Availability of funds for payment of Federal share of development costs.

(1) From the sums available for any fiscal year for amount allotted to a State under this section shall be available for the payment of the Federal share of the development cost of approved projects for the construction of academic facilities within such State for public community colleges and public technical institutes.

(2) Any portion of a State's allotment under this section for any fiscal year for which applications from an institution qualified to receive grants under this section have not been received prior to January 1 of such fiscal year by the State Commission created or designated pursuant to section 1142a of this title shall, if the State Commission so requests, be available for payment of the Federal share of the development cost of approved projects under section 1132a–2 of this title.

(d) Reallotment of unreserved funds at close of fiscal year; factors considered.

All amounts allotted under this section for any fiscal year which are not reserved as provided in section 1132a(c) of this title by the close of the fiscal year for which they are allotted shall be reallotted by the Commissoner, on the basis of such factors as he determines to be equitable and reasonable, among the States which, as determined by the Commissioner, are able to use without delay any amounts so reallotted for the purpose set forth in subsection (c)(1) of this section. Amounts reallotted under this subsection shall be available for reservation until the close of the fiscal year next succeeding the fiscal year for which they were originally allotted.

(e) Allotment ratio; specification and promulgation.

For the purposes of clause (2) of subsection (b) of this section, the "allotment ratio" for any State shall be 1.00 less the product of (A) 0.50 and (B) the quotient obtained by dividing the income per person for the State by the income per person for all the States (not including Puerto Rico, the Virgin Islands, American Samoa, the Trust Territory of the Pacific Islands, and Guam), except that (i) the allotment ratio shall in no case be less than 0.33⅓ or more than 0.66⅔, (ii) the allotment ratio for Puerto Rico, the Virgin Islands, American Samoa, the Trust Territory of the Pacific Islands, and Guam shall be 0.66⅔, and (iii) the allotment ratio of any State shall be 0.50 for any fiscal year if the Commissioner finds that the cost of school construction in such State exceeds twice the median of such costs in all the States as determined by him on the basis of statistics and data as the Commissioner shall deem adequate and appropriate. The allotment ratios shall be promulgated by the Commissioner as soon as possible after June 30, 1972, and annually thereafter, on the basis of the average of the incomes per person of the State and of all the States for the three most recent consecutive calendar years for which satisfactory data are available from the Department of Commerce.

(f) High school graduate defined.

For the purpose of this section, the term "high school graduate" means a person who has received formal recognition (by diploma, certificate or similar means) from an approved school for successful completion of four years of education beyond the first eight years of school work, or for demonstration of equivalent achievement. For the purposes of this section the number of high school graduates shall be limited to the number who graduated in the most recent school year for which satisfactory data are available from the Department of Health, Education, and Welfare. The interpretation of the definition of "high school graduate" shall fall within the authority of the Commissioner. (Pub. L. 89–329, title VII, § 702, as added Pub. L. 92–318, title I, § 161(a), June 23, 1972, 86 Stat. 288.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1132a, 1132a–2, 1132a–3 of this title.

§ 1132a–2. Allotments for institutions of higher education other than public community colleges and public technical institutes.

(a) Appropriations available for allotments.

Sums appropriated pursuant to section 1132a(b) of this title which remain after the reservation provided for in the first sentence of section 1132a(c) of this title for any fiscal year shall be available for allotments to States for providing academic facilities for institutions of higher education other than institutions eligible for grants under section 1132a–1 of this title.

(b) Considerations and determinations affecting; limitation.

Sums available for the purposes of this section for any fiscal year shall be allotted among the States as follows:

(1) The Commissioner shall allot each State an amount which bears the same ratio to 50 per centum of such sums as the number of students enrolled in institutions of higher education in such States bears to the number of students so enrolled in all the States; and

(2) The Commissioner shall allot to each State an amount which bears the same ratio to 50 per centum of such sums as the number of students enrolled in grades nine through twelve (both inclusive) of schools in such State bears to the total number of students so enrolled in all the States. For the purposes of this subsection (A) the number of students enrolled in institutions of higher education shall be deemed to be equal to the sum of (i) the number of full-time students and (ii) the full-time equivalent of the number of part-time students as determined by the Commissioner in accordance with regulations; and (B) determinations as to enrollment under either clause (1) or clause (2) shall be made by the Commissioner on the basis of data for the most recent year for which satisfactory data with respect to such enrollment are available to him.

The amount allotted to any State under the preceding sentence for any fiscal year shall not be less than $50,000.

(c) Availability of funds.

(1) Any amount allotted to a State under this section for any fiscal year shall, except as provided in paragraph (2), be available, in accordance with the provisions of this subchapter, for payment of the Federal share of the development cost of approved projects for the construction of academic facilities within such State for institutions of higher education which are not eligible for grants under section 1132a–1 of this title.

(2) Any portion of a State's allotment under this section for any fiscal year for which applications from an institution qualified to receive grants under this section have not been received by the State Commission prior to January 1 of such fiscal year, shall, if the State Commission so requests, be available for payment of the Federal share of the development cost of approved projects under section 1132a–1 of this title.

(d) Reallotment of unreserved funds at close of fiscal year; factors considered.

All amounts allotted under this section for any fiscal year, which are not reserved by the close of the fiscal year for which they are allotted, shall be reallotted by the Commissioner, on the basis of such factors as he determines to be equitable and reasonable, among the States which, as determined by the Commissioner, are able to use without delay any amounts so reallotted for the purposes of this section. Amounts reallotted under this subsection shall be available for reservation until the close of the fiscal year next succeeding the fiscal year for which they were originally allotted. (Pub. L. 89–329, title VII, § 703, as added Pub. L. 92–318, title I, § 161(a), June 23, 1972, 86 Stat. 290.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1132a, 1132a–1, 1132a–3 of this title.

§ 1132a–3. State plans.

(a) Submission, time and manner; contents.

Any State desiring to participate in the grant program authorized by this part for any fiscal year shall submit for that year to the Commissioner through the State Commission a State plan for such participation. Such plan shall be submitted at such time, in such manner, and containing such information as may be necessary to enable the Commissioner to carry out his functions under this part and shall—

(1) provide that it shall be administered by the State Commission;

(2) set forth objective standards and methods which are consistent with basic criteria prescribed by regulations pursuant to section 1132a–5 of this title, for—

(A) determining the relative priorities of eligible projects submitted by institutions of higher education within the State for the construction of academic facilities, and

(B) determining the Federal share of the development cost of each such project;

(3) provide that the funds apportioned for any fiscal year under section 1132a–1 or 1132a–2 of this title shall be used only for the purposes set forth therein:

(4) provide for—

(A) assigning priorities solely on the basis of such criteria, standards, and methods to eligible projects submitted to the State Commission and found by it otherwise approvable under the provisions of this part, and

(B) approving and recommending to the Commissioner, in the order of such priority, applications covering such eligible projects, and for certifying to the Commissioner the Federal share of the development cost of the project involved;

(5) provide for affording to every applicant which has submitted a project to the State Commission an opportunity for a fair hearing before the State Commission as to the priority assigned to such project, or as to any other determination of the State Commission adversely affecting such applicant; and

(6) provide for—

(A) such fiscal control and fund accounting procedures as may be necessary to assure proper disbursement of, and accounting for, Federal funds paid to the State Commission under this part, and

(B) making such reports, in such form and containing such information, as may be reasonably necessary to enable the Commissioner to perform his functions under this part.

(b) Approval by Commissioner.

The Commissioner shall approve any State plan submitted under this section if he determines that it complies with the provisions of this section and other appropriate provisions of this subchapter. (Pub. L. 89–329, title VII, § 704, as added Pub. L. 92–318, title I, § 161(a), June 23, 1972, 86 Stat. 290.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1132a–7, 1132d–4, 1142a of this title.

§ 1132a–4. Eligibility of institutions for grants; expansion of student enrollment capacity.

(a) Except as is provided in subsection (b) of this section, an institution of higher education shall be eligible for a grant under this part only if the State Commission determines, in accordance with criteria prescribed by regulation, that the construction project for which assistance is sought will, either alone or together with other construction to be undertaken within a reasonable time, result in—

(1) a substantial expansion of, or

(2) in the case of a new institution, the creation of,

urgently needed (A) enrollment capacity, (B) the capacity to provide health care for students and institutional personnel, or (C) capacity to carry out extension and continuing education programs on the campus of such institution.

(b) If the Commissioner determines, in accordance with criteria established by regulation, that the student enrollment capacity of an institution of higher education would decrease if an urgently needed academic facility is not constructed, the construction of such a facility may be considered, for the purposes of this section, to result in an expansion of the institution's student enrollment capacity. (Pub. L. 89–329, title VII, § 705, as added Pub. L. 92–318, title I, § 161(a), June 23, 1972, 86 Stat. 291.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1132a–6 of this title.

§ 1132a–5. Basic criteria for determining priorities and Federal share; limitation; rule making procedure applicable to prescription of regulations.

(a) (1) The Commissioner shall, by regulation, prescribe basic criteria to which the provisions of State plans, setting forth standards and methods for determining relative priorities of eligible construction projects, and the application of such standards and methods to such projects under such plans, shall be subject.

(2) Such basic criteria shall, at least—

(A) be such as will best tend to achieve the objectives of this part, while leaving opportunity and flexibility to State Commissions for the development of State plan standards and methods that will best accommodate the varied needs of institutions in the several States;

(B) give special consideration to the expansion of undergraduate enrollment capacity; and

(C) give consideration to the expansion of capacity to provide needed health care to students and institutional personnel.

(3) Subject to paragraph (2), such regulations may establish additional and appropriate basic criteria, including—

(A) provision for considering the degree to which applicant institutions are effectively utilizing existing facilities;

(B) provision for allowing State plans to group, or to allow grouping, in a reasonable manner, facilities or institutions according to functional or educational type for priority purposes; and

(C) in view of the national objectives of this subchapter, provision for considering the degree to which applicant institutions serve students from two or more States or from outside the United States.

(4) In no event shall such basic criteria permit the readiness of an institution to admit out-of-State students to be considered as a priority adverse to such institution.

(b) (1) The Commissioner shall prescribe, by regulation, the base criteria for determining the Federal share of the development cost of any eligible project under this part within a State, to which criteria the applicable standards and methods set forth in the State plan for such State shall conform.

(2) In no case shall such basic criteria permit the Federal share to exceed 50 per centum of the development cost of a project.

(c) Section 553 of Title 5 shall apply to the prescription of regulations under this section, notwithstanding clause (2) of subsection (a) thereof. (Pub. L. 89–329, title VII, § 706, as added Pub. L. 92–318, title I, § 161(a), June 23, 1972, 86 Stat. 292.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1132a–3, 1132e–1 of this title.

§ 1132a–6. Applications for grants.

(a) Submission of applications by institutions; conditions for approval.

(1) Any institution of higher education which desires to receive a grant under this part shall submit an application therefor at such time or times, in such manner, and containing such information as the Commissioner shall prescribe by regulation.

(2) The Commissioner shall approve an application for a construction project under this part if he determines that—

(A) it meets the requirements prescribed under paragraph (1);

(B) the project for which assistance is sought is an eligible project under section 1132a–4 of this title;

(C) such project has been submitted through, and been approved and recommended by, the appropriate State Commission;

(D) such State Commission has certified to the Commissioner, in accordance with the State plan, the Federal share of the development cost of the project, and sufficient funds to pay such Federal share are available from the applicable apportionment of the State;

(E) such project has, pursuant to the State plan, been assigned a priority that is higher than that assigned to all other projects within the State which are chargeable to the same apportionment, and meet the requirements of this section, and for which Federal funds have not yet been reserved;

(F) the construction to be carried out under the application will be undertaken in a timely and economic manner and will not be of elaborate or extravagant design or materials;

(G) in the case of a student health care facility, no assistance will be provided for such facility under title IV of the Housing Act of 1950; and

(H) the application contains assurances or is supported by satisfactory assurances—

(i) that title to the site is in accordance with regulations of the Commissioner relating thereto,

(ii) that Federal funds received by the applicant will be solely used for defraying the development cost of the project covered by the application,

(iii) that sufficient funds will be available to meet the non-Federal portion of such cost and to provide for the effective use of the academic facility upon completion, and

(iv) that the facility will be used as an academic facility for at least the period of the Federal interest therein, as provided in section 1132e–1 of this title.

(b) Amendments of applications.

Amendments to applications submitted under this section shall, except as the Commissioner may otherwise provide by regulations, be subject to approval in the same manner as original applications.

(c) Amount of grant; reservation and payment.

(1) Upon his approval of any application under this section, the Commissioner shall reserve from the applicable allotment available therefor, the amount of such grant, which shall be equal to the Federal share of the development cost of the project covered by the application. The Commissioner shall pay such reserved amount, in advance or by way of reimbursement, and in such installments consistent with construction progress, as he may determine.

(2) Upon approval of an amendment of an application, or revision of the estimated development cost of a project, for which there has been a reservation made under paragraph (1), the Commissioner may adjust the amount so reserved, accordingly. If an adjustment under the first sentence of this paragraph results in a greater amount being reserved, he may reserve the Federal share of the added cost only from the applicable allotment available at the time of such approval. (Pub. L. 89–329, title VII, § 707, as added Pub. L. 92–318, title I, § 161(a), June 23, 1972, 86 Stat. 292.)

REFERENCES IN TEXT

Title IV of the Housing Act of 1950, referred to in subsec. (a) (2) (G), means title IV of act Apr. 20, 1950, ch. 94, 64 Stat. 77, which is classified to subchapter IX of chapter 13 (section 1749 et seq.) of Title 12, Banks and Banking.

§ 1132a–7. Disapproval of State plans and judicial review.

(a) Notice and hearing; findings of Commissioner; notification of non-eligibility.

(1) The Commissioner shall not finally disapprove any State plan submitted under this part, or any modification thereof, without first affording the State Commission submitting the plan reasonable notice and opportunity for a hearing.

(2) Whenever the Commissioner, after reasonable notice and opportunity for hearing to the State Commission administering a State plan approved under this part, finds—

(A) that the State plan has been so changed that it no longer complies with the provisions of section 1132a–3 of this title, or

(B) that in the administration of the plan there is a failure to comply substantially with any such provision,

the Commissioner shall notify such State Commission that the State will not be regarded as eligible to participate in the program under this part until he is satisfied that there is no longer any such failure to comply.

(b) Appeal by State of Commissioner's final action to court of appeals; findings of Commissioner conclusive if substantially supported; remand for taking further evidence; new or modified findings conclusive if supported; jurisdiction of court of appeals; review by Supreme Court.

(1) If any State is dissatisfied with the Commissioner's final action with respect to the approval of its State plan submitted under section 1132a–3 of this title, or with his final action under subsection (a) of this section, such State may appeal to the United States court of appeals for the circuit in which such State is located. The summons and notice of appeal may be served at any place in the United States. The Commissioner shall forthwith certify and file in the court the transcript of the proceedings and the record on which he based his action.

(2) The findings of fact by the Commissioner if supported by substantial evidence, shall be conclusive; but the court, for good cause shown, may remand the case to the Commissioner to take further evidence, and the Commissioner may thereupon make new or modified findings of fact and may modify his previous action, and shall certify to the court the transcript and record of the further proceedings. Such new or modified findings of fact shall likewise be conclusive if supported by substantial evidence.

(3) The court shall have jurisdiction to affirm the action of the Commissioner or to set it aside, in whole or in part. The judgment of the court shall be subject to review by the Supreme Court of the United States upon certiorari or certification as provided in Title 28, section 1254. (Pub. L. 89–329, title VII, § 708, as added Pub. L. 92–318, title I, § 161(a), June 23, 1972, 86 Stat. 293.)

PART B.—GRANTS FOR CONSTRUCTION OF GRADUATE ACADEMIC FACILITIES

PART REFERRED TO IN OTHER SECTIONS

This part is referred to in sections 1132e, 1132e–1 of this title.

§ 1132b. Statement of purpose; authorization of appropriations.

(a) The Commissioner shall carry out a program of making grants to institutions of higher education to assist them in improving existing graduate schools and cooperative graduate centers, and in establishing graduate schools and cooperative graduate centers of excellence, in order to increase the supply of highly qualified personnel needed by communities, industries, and governments and for teaching and research.

(b) For the purpose of making grants under this part, there are authorized to be appropriated $20,000,000 for the fiscal year ending June 30, 1972, $40,000,000 for the fiscal year ending June 30, 1973, $60,000,000 for the fiscal year ending June 30, 1974, and $80,000,000 for the fiscal year ending June 30, 1975. (Pub. L. 89–329, title VII, § 721, as added Pub. L. 92–318, title I, § 161(a), June 23, 1972, 86 Stat. 294.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1132b–1 of this title.

§ 1132b–1. Grants.

(a) Institutions eligible; application required; maximum amount of payments in any fiscal year.

(1) Any institution of higher education desiring to receive a grant under this part shall submit an application therefor at such time, in such manner, and containing such information as the Commissioner may require.

(2) In determining whether to approve applications under this section, the order in which to approve such applications, and the amount of grants, the Commissioner shall give consideration to the extent to which the projects for which assistance is sought will contribute toward achieving the objectives of this part, and the extent to which they will aid in attaining a wider distribution of graduate schools and cooperative graduate centers throughout the States. In no case shall the total of the payments from appropriations for any fiscal year pursuant to section 1132b of this title made with respect to projects in any State exceed an amount equal to 12½ per centum of such appropriations.

(3) For the purposes of this section, the term "institution of higher education" includes cooperative graduate center boards.

(b) Action by panel of specialists required for application approval.

The Commissioner shall not approve any application under this section until he has obtained the advice and recommendations of a panel of specialists who are not regular full-time employees of the Federal Government and who are competent to evaluate such application.

(c) Maximum allowable percentile of development cost.

No grant under this part may be in an amount in excess of 50 per centum of the development cost of the project covered by the application. (Pub. L. 89–329, title VII, § 722, as added Pub. L. 92–318, title I, § 161(a), June 23, 1972, 86 Stat. 294.)

PART C.—LOANS FOR CONSTRUCTION OF ACADEMIC FACILITIES

PART REFERRED TO IN OTHER SECTIONS

This part is referred to in sections 1132e–1, 1201, 1221 of this title.

§ 1132c. Authorization.

(a) Lending authority.

(1) The Commissioner shall carry out a program of making and insuring loans, in accordance with the provisions of this part.

(2) The Commissioner is authorized to make loans to institutions of higher education and to higher education building agencies for the construction of academic facilities and to insure loans.

(b) Appropriations.

For the purpose of making payments into the fund established under section 1132c–3 of this title, there are hereby authorized to be appropriated $50,000,000 for the fiscal year ending June 30, 1972, $100,000,000 for the fiscal year ending June 30, 1973, $150,000,000 for the fiscal year ending June 30, 1974, and $200,000,000 for the fiscal year ending June 30, 1975. Sums

appropriated pursuant to this subsection for any fiscal year shall be available without fiscal year limitations. (Pub. L. 89–329, title VII, § 741, as added Pub. L. 92–318, title I, § 161(a), June 23, 1972, 86 Stat. 295.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1132c–3 of this title.

§ 1132c–1. Eligibility conditions, amounts and terms of loans.

(a) No loan pursuant to this part shall be made unless the Commissioner finds (1) that not less than 20 per centum of the development cost of the facility will be financed from non-Federal sources, (2) that the applicant is unable to secure the amount of such loan from other sources upon terms and conditions equally as favorable as the terms and conditions applicable to loans under this part, (3) that the construction will be undertaken in an economical manner and that it will not be of elaborate or extravagant design or materials, and (4) that, in the case of a project to construct an infirmary or other facility designed to provide primarily for outpatient care of students and institutional personnel, no financial assistance will be provided such project under title IV of the Housing Act of 1950.

(b) A loan pursuant to this part shall be secured in such manner and shall be repaid within such period not exceeding fifty years, as may be determined by the Commissioner; and it shall bear interest at (1) a rate determined by the Commissioner which shall not be less than a per annum rate that is one-quarter of 1 percentage point above the average annual interest rate on all interest-bearing obligations of the United States forming a part of the public debt as computed at the end of the preceding fiscal year, adjusted to the nearest one-eighth of 1 per centum, or (2) the rate of 3 per centum per annum, whichever is the lesser. (Pub. L. 89–329, title VII, § 742, as added Pub. L. 92–318, title I, § 161(a), June 23, 1972, 86 Stat. 295.)

REFERENCES IN TEXT

Title IV of the Housing Act of 1950, referred to in subsec. (a), means title IV of act Apr. 20, 1950, ch. 94, 64 Stat. 77, which is classified to subchapter IX of chapter 13 (section 1749 et seq.) of Title 12, Banks and Banking.

§ 1132c–2. General provisions for loan program.

(a) Transactions of Commissioner final and conclusive.

Financial transactions of the Commissioner under this part, except with respect to administrative expenses, shall be final and conclusive on all officers of the Government and shall not be reviewable by any court.

(b) Additional powers and duties of Commissioner.

In the performance of, and with respect to, the functions, powers, and duties vested in him by this part, the Commissioner may—

(1) prescribe such rules and regulations as may be necessary to carry out the purposes of this part;

(2) sue and be sued in any court of record of a State having general jurisdiction or in any district court of the United States, and such district courts shall have jurisdiction of civil actions arising under this part without regard to the amount in controversy, and any action instituted under this subsection by or against the Commissioner shall survive notwithstanding any change in the person occupying the office of the Commissioner or any vacancy in such office; but no attachment, injunction, garnishment, or other similar process, mesne or final, shall be issued against the Commissioner or property under his control, and nothing herein shall be construed to except litigation arising out of activities under this part from the application of sections 507(b) and 517 and 2679 of Title 28;

(3) foreclose on any property or commence any action to protect or enforce any right conferred upon him by any law, contract, or other agreement, and bid for and purchase at any foreclosure or any other sale any property in connection with which he has made a loan pursuant to this part; and, in the event of any such acquisition (and notwithstanding any other provisions of law relating to the acquisition, handling, or disposal of real property by the United States), complete, administer, remodel and convert, dispose of, lease, and otherwise deal with, such property; except that (1) such action shall not preclude any other action by him to recover any deficiency in the amounts loaned and (2) any such acquisition of real property shall not deprive any State or political subdivision thereof of its civil or criminal jurisdiction in and over such property or impair the civil rights under the State or local laws of the inhabitants on such property;

(4) sell or exchange at public or private sale, or lease, real or personal property, and sell or exchange any securities or obligations, upon such terms as he may fix;

(5) subject to the specific limitations in this part, consent to the modification, with respect to the rate of interest, time of payment of any installment of principal or interest, security, or any other term of any contract or agreement to which he is a party or which has been transferred to him pursuant to this section; and

(6) include in any contract or instrument made pursuant to this part such other covenants, conditions, or provisions (including provisions designed to assure against use of the facility, constructed with the aid of a loan under this part, for purposes described in section 1132e–1(1) of this title), as he may deem necessary to assure that the purpose of this part will be achieved.

(Pub. L. 89–329, title VII, § 743, as added Pub. L. 92–318, title I, § 161(a), June 23, 1972, 86 Stat. 296.)

§ 1132c–3. Revolving Loan Fund and Insurance Fund.

(a) Creation; limitation on loans.

There is hereby created within the Treasury a separate fund for higher education academic facilities loans and loan insurance (hereafter in this section called the "fund") which shall be available to the Commissioner without fiscal year limitation as a revolving fund for the purposes of making loans and insuring loans under this part. The total of any loans made from the fund in any fiscal year shall not exceed limitations specified in appropriation acts.

(b) Operation of fund; sale of assets, beneficial interests, and participations in assets of the fund; interest; deferral.

(1) The Commissioner shall transfer to the fund available appropriations provided under section 1132c (b) of this title to provide capital for the fund. All amounts received by the Commissioner as interest payments or repayments of principal on loans, and any other moneys, property, or assets derived by him from his operations in connection with this part, including any moneys derived directly or indirectly from the sale of assets, or beneficial interests or participations in assets of the fund, shall be deposited in the fund.

(2) All loans, expenses, and payments pursuant to operations of the Commissioner under this part shall be paid from the fund, including (but not limited to) expenses and payments of the Commissioner in connection with sale, under section 1717(c) of Title 12, of participations in obligations acquired under this part. From time to time, and at least at the close of each fiscal year, the Commissioner shall pay from the fund into the Treasury as miscellaneous receipts interest on the cumulative amount of appropriations paid out for loans under this part or available as capital to the fund, less the average undisbursed cash balance in the fund during the year. The rate of such interest shall be determined by the Secretary of the Treasury, taking into consideration the average market yield during the month preceding each fiscal year on outstanding Treasury obligations of maturity comparable to the average maturity of loans made from the fund. Interest payments may be deferred with the approval of the Secretary of the Treasury, but any interest payments so deferred shall themselves bear interest. If at any time the Commissioner determines that moneys in the fund exceed the present and any reasonably prospective future requirements of the fund, such excess may be transferred to the general fund of the Treasury. (Pub. L. 89–329, title VII, § 744, as added Pub. L. 92–318, title I, § 161(a), June 23, 1972, 86 Stat. 296.)

CONTINUATION OF SECTION 745 FUND; TRANSFER OF MONEYS; APPROPRIATION

Section 161(b)(4) of Pub. L. 92–318 provided that: "The revolving fund created by section 744 of the Higher Education Act of 1965 [this section] shall be deemed to be a continuation of the revolving fund created by section 305 of the Higher Education Facilities Act of 1963 [section 745 of this title]. Any sums in the fund for higher education academic facilities created by such section 305 [section 745 of this title] on the date of enactment of this Act [June 23, 1972] shall be transferred to the fund created by section 744 of the Higher Education Act of 1965, [this section], and all such funds shall be deemed to have been made available for such fund. Notwithstanding any other provision of law, unless enacted in specific limitation of the provisions of this sentence, any sums appropriated pursuant to section 303(c) of the Higher Education Facilities Act of 1963 [section 743(c) of this title] for any fiscal year ending prior to July 1, 1973, which have not been loaned under title III of that Act of 1963 [section 741 et seq. of this title] shall be deemed to have been appropriated pursuant to section 741(b) of the Higher Education Act of 1965 [section 1132c(b) of this title] for the fiscal year ending June 30, 1973."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1132c, 1132c–4 of this title.

§ 1132c–4. Annual interest grants.

(a) Power of Commissioner.

To assist institutions of higher education and higher education building agencies to reduce the cost of borrowing from other sources for the construction of academic facilities, the Commissioner may make annual interest grants to such institutions and agencies.

(b) Maximum period and amount; approval by Secretary.

Annual interest grants to an institution of higher education or higher education building agency with respect to any academic facility shall be made over a fixed period not exceeding forty years, and provision for such grants shall be embodied in a contract guaranteeing their payment over such period. Each such grant shall be in an amount not greater than the difference between (1) the average annual debt service which would be required to be paid, during the life of the loan, on the amount borrowed from other sources for the construction of such facilities, and (2) the average annual debt service which the institution would have been required to pay, during the life of the loan, with respect to such amounts if the applicable interest rate were the maximum rate specified in section 1132c–3(b)(2) of this title. The amount on which such grant is based shall be approved by the Secretary.

(c) Authorization of appropriations; aggregate amount of contracts.

(1) There are hereby authorized to be appropriated to the Commissioner such sums as may be necessary for the payment of annual interest grants to institutions of higher education and higher education building agencies in accordance with this section.

(2) Contracts for annual interest grants under this section shall not be entered into in an aggregate amount greater than is authorized in appropriation Acts; and in any event the total amount of annual interest grants which may be paid to institutions of higher education and higher education building agencies in any year pursuant to contracts entered into under this section shall not exceed $5,000,000 which amount shall be increased by $6,750,000 on July 1, 1969, and by $13,500,000 on July 1, 1970 and on July 1 of each of the four succeeding years.

(d) Maximum amount of funds usable in one State.

Not more than 12½ per centum of the funds provided for in this section for grants may be used within any one State.

(e) Prerequisites; nature of financing.

No annual interest grant pursuant to this section shall be made unless the Commissioner finds (1) that not less than 10 per centum of the development costs of the facility will be financed from non-Federal sources, (2) that the applicant is unable to secure a loan in the amount of the loan with respect to which the annual interest grant is to be made, from other sources upon terms and conditions equally as favorable as the terms and conditions applicable to loans under this subchapter, and (3) that the construction will be undertaken in an economical

manner and that it will not be of elaborate or extravagant design or materials. For purposes of this section, a loan with respect to which an interest grant is made under this section shall not be considered financing from a non-Federal source. For purposes of the other provisions of this subchapter, such a loan shall be considered financing from a non-Federal source. (Pub. L. 89–329, title VII, § 745, as added Pub. L. 92–318, title I, § 161(a), June 23, 1972, 86 Stat. 297.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1132c–5 of this title.

§ 1132c–5. Academic facilities loan insurance.

(a)(1) In order to assist nonprofit private institutions of higher education and nonprofit private higher education building agencies to procure loans for the construction of academic facilities, the Commissioner may insure the payment of interest and principal on such loans if such institutions and agencies meet, with respect to such loans, criteria prescribed by or under section 1132c–4 of this title for the making of annual interest grants under such section.

(2) No loan insurance under paragraph (1) may apply to so much of the principal amount of any loan as exceeds 90 per centum of the development cost of the academic facility with respect to which such loan was made.

(b)(1) The United States shall be entitled to recover from any institution or agency to which loan insurance has been issued under this section the amount of any payment made pursuant to that insurance, unless the Commissioner for good cause waives its right of recovery. Upon making any such payment, the United States shall be subrogated to all of the rights of the recipient of the payment with respect to which the payment was made.

(2) Any insurance issued by the Commissioner pursuant to subsection (a) of this section shall be incontestable in the hands of the institution or agency on whose behalf such insurance is issued, and as to any agency, organization, or individual who makes or contracts to make a loan to such institution or agency in reliance thereon, except for fraud or misrepresentation on the part of such institution or agency or on the part of the agency, organization, or individual who makes or contracts to make such loan.

(c) Insurance may be issued by the Commissioner under subsection (a) of this section only if he determines that the terms, conditions, maturity, security (if any), and schedule and amounts of repayments with respect to the loan are sufficient to protect the financial interests of the United States and are otherwise reasonable and in accord with regulations, including a determination that the rate of interest does not exceed such per centum per annum on the principal obligation outstanding as the Commissioner determines to be reasonable, taking into account the range of interest rates prevailing in the private market for similar loans and the risks assumed by the United States. The Commissioner may charge a premium for such insurance in an amount reasonably determined by him to be necessary to cover administrative expenses and probable losses under subsections (a) and (b) of this section. Such insurance shall be subject to such further terms and conditions as the Commissioner determines to be necessary. (Pub. L. 89–329, title VII, § 746, as added Pub. L. 92–318, title I, § 161(a), June 23, 1972, 86 Stat. 298.)

PART D.—ASSISTANCE IN MAJOR DISASTER AREAS

PART REFERRED TO IN OTHER SECTIONS

This part is referred to in sections 1132e–1, 1221 of this title.

§ 1132d. Authorization of appropriations.

(a) The commissioner shall carry out a program of financial assistance to public institutions of higher education, in accordance with the provisions of this part.

(b) There are authorized to be appropriated for each fiscal year such sums as may be necessary to carry out the provisions of this part. (Pub. L. 89–329, title VII, § 761, as added Pub. L. 92–318, title I, § 161(a), June 23, 1972, 86 Stat. 299.)

§ 1132d–1. Assistance for construction of academic facilities.

(a) If the Director of the Office of Emergency Planning determines that a public institution of higher education is, in whole or in part, within an area which, after June 30, 1971, and before July 1, 1975, has suffered a disaster which is a major disaster, and if the Commissioner determines with respect to such institution that—

(1) the academic facilities of such institution have been destroyed or seriously damaged as a result of the disaster;

(2) such institution is exercising due diligence in availing itself of State and other financial assistance available for restoration or replacement of such facilities; and

(3) the institution does not have sufficient funds available from such other sources, including proceeds of insurance on the facilities, to provide for the restoration or replacement of such facilities;

the Commissioner is authorized to provide such assistance to such institution as is provided in subsection (b) of this section.

(b)(1) Assistance under this section shall be a grant to an eligible institution, as determined under subsection (a) of this section, of an amount necessary to enable the institution to carry out the construction necessary to restore or replace the academic facilities determined under clause (1) of subsection (a) of this section to be damaged or destroyed.

(2) The maximum amount of a grant under this section shall not exceed the cost of construction incident to the restoration or replacement of the facilities determined to be damaged or destroyed under clause (1) of subsection (a) of this section less the amount of additional assistance determined under clause (3) of subsection (a) of this section to be available.

(c)(1) Assistance under this section may include a grant of an amount necessary to enable the institution to lease, or otherwise obtain the use of, such

facilities as are needed to replace, temporarily, facilities which have been made unavailable as a result of a major disaster.

(2) An institution shall be eligible for assistance under this subsection if it qualifies for assistance under subsection (a) of this section, whether or not it receives assistance under subsection (b) of this section. (Pub. L. 89–329, title VII, § 762, as added Pub. L. 92–318, title I, § 161(a), June 23, 1972, 86 Stat. 299.)

TRANSFER OF FUNCTIONS

Functions of the Director of the Office of Emergency Preparedness under this section, transferred to the President by Reorganization Plan No. 1 of 1973, set out in the Appendix to Title 5, Government Organization and Employees, were transferred to the Secretary of Housing and Urban Development, by section 2 (2) of Ex. Ord. No. 11749, Dec. 10, 1973, 38 F.R. 34177, set out as a note preceding section 4411 of Title 42, The Public Health and Welfare.

Functions of the Director of the Office of Emergency Preparedness with respect to determining whether a major disaster has occurred within the meaning of this section transferred to the Secretary of Housing and Urban Development, see section 1 of Ex. Ord. No. 11725, June 27, 1973, 38 F.R. 17175, set out as a note under section 2271 of Title 50, Appendix, War and National Defense.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1132d–2, 1132d–3, 1132d–4 of this title.

§ 1132d–2. Equipment and supplies.

If an institution is eligible for assistance under section 1132d–1(a) of this title, the Commissioner is authorized, whether or not such institution receives assistance under section 1132d–1(b) of this title, to make a grant to such institution of not in excess of an amount he determines necessary to replace equipment, maintenance supplies, and instructional supplies (including books, and curricular and program material) destroyed or seriously damaged as a result of the major disaster. (Pub. L. 89–329, title VII, § 763, as added Pub. L. 92–318, title I. § 161(a), June 23, 1972, 86 Stat. 300.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1132d–3, 1132d–4 of this title.

§ 1132d–3. Repayable assistance in lieu of a grant.

If the Commissioner's determinations under clauses (2) and (3) of section 1132d–1(a) of this title indicate that financial resources will become available to an institution otherwise qualified for assistance under section 1132d–1 of this title at some future date or dates, he is authorized, subject to such terms and conditions as may be in the public interest, to extend assistance to such institution under section 1132d–1(b), 1132d–1(c), or 1132d–2 of this title (or all such sections) with an agreement with such institution which provides that the institution will repay part or all of the funds received by it under this part. (Pub. L. 89–329, title VII, § 764, as added Pub. L. 92–318, title I, § 161(a), June 23, 1972, 86 Stat. 300.)

§ 1132d–4. Applications for assistance.

No payment may be made to a public institution of higher education for academic facilities under section 1132d–1 of this title or for assistance under section 1132d–2 of this title unless an application therefor is submitted through the appropriate State Commission and is filed with the Commissioner in accordance with regulations prescribed by him. In determining the order in which such application shall be approved, the Commissioner shall consider the relative educational and financial needs of the institutions which have submitted approvable applications. No payment may be made under section 1132d–1(b) of this title unless the Commissioner finds after consultation with the State Commission, that the project or projects with respect to which it is made are not inconsistent with overall State plans, submitted under section 1132a–3(a) of this title, for the construction of academic facilities. All determinations made by the Commissioner under this part shall be made only after consultation with the appropriate State Commission. (Pub. L. 89–329, title VII, § 765, as added Pub. L. 92–318, title I, § 161(a), June 23, 1972, 86 Stat. 300.)

§ 1132d–5. Definitions.

For the purposes of this part—

(1) the term "major disaster" means a disaster determined to be a major disaster as defined in section 1855a(a) of Title 42; and

(2) an institution of higher education shall be deemed to be a "public institution of higher education" if such institution is found by the Commissioner to be under public supervision and control.

(Pub. L. 89–329, title VII, § 766, as added Pub. L. 92–318, title I, § 161(a), June 23, 1972, 86 Stat. 300.)

REFERENCES IN TEXT

Section 1855a of title 42, referred to in the text, was repealed by Pub. L. 91–606, title III, § 302(1), Dec. 31, 1970, 84 Stat. 1759.

PART E.—GENERAL PROVISIONS

§ 1132e. Recovery of payments.

(a) The Congress hereby finds and declares that, if a facility constructed with the aid of a grant or grants under part A or B of this subchapter is used as an academic facility for twenty years following completion of such construction, the public benefit accruing to the United States from such use will equal in value the amount of such grant or grants. The period of twenty years after completion of such construction shall therefore be deemed to be the period of Federal interest in such facility for the purposes of this subchapter.

(b) If, within twenty years after completion of construction of an academic facility which has been constructed in part with a grant or grants under part A or B of this subchapter—

(1) the applicant (or its successor in title or possession) ceases or fails to be a public or nonprofit institution, or

(2) the facility ceases to be used as an academic facility, or the facility is used as a facility excluded from the term "academic facility", unless the Secretary determines that there is good cause for releasing the institution from its obligation,

the United States shall be entitled to recover from such applicant (or successor) an amount which bears to the then value of the facility (or so much thereof as constituted an approved project or projects) the same ratio as the amount of such Federal grant or

grants bore to the development cost of the facility financed with the aid of such grant or grants. Such value shall be determined by agreement of the parties or by action brought to the United States district court for the district in which such facility is situated.

(c) Notwithstanding the provisions of subsections (a) and (b) of this section, no facility constructed with assistance under this subchapter shall ever be used for religious worship or a sectarian activity or for a school or department of divinity. (Pub. L. 89–329, title VII, § 781, as added Pub. L. 92–318, title I, § 161(a), June 23, 1972, 86 Stat. 300.)

§ 1132e–1. Definitions.

The following definitions apply to terms used in this subchapter:

(1) (A) Except as provided in subparagraph (B) of this paragraph, the term "academic facilities" means structures suitable for use as classrooms, laboratories, libraries, and related facilities necessary or appropriate for instruction of students, or for research, or for administration of the educational or research programs, of an institution of higher education, and maintenance, storage, or utility facilities essential to operation of the foregoing facilities. For purposes of parts A, C, and D, such term includes infirmaries or other facilities designed to provide primarily for outpatient care of student and instructional personnel. Plans for such facilities shall be in compliance with such standards as the Secretary of Health, Education, and Welfare may prescribe or approve in order to insure that facilities constructed with the use of Federal funds under this subchapter shall be, to the extent appropriate in view of the uses to be made of the facilities, accessible to and usable by handicapped persons.

(B) The term "academic facilities" shall not include (i) any facility intended primarily for events for which admission is to be charged to the general public, or (ii) any gymnasium or other facility specially designed for athletic or recreational activities, other than for an academic course in physical education or where the Commissioner finds that the physical integration of such facilities with other academic facilities included under this subchapter is required to carry out the objectives of this subchapter, or (iii) any facility used or to be used for sectarian instruction or as a place for religious worship, or (iv) any facility which (although not a facility described in the preceding clause) is used or to be used primarily in connection with any part of the program of a school or department of divinity, or (v) any facility used or to be used by a school of medicine, school of dentistry, school of osteopathy, school of pharmacy, school of optometry, school of podiatry, or school of public health as these terms are defined in section 293d of Title 42, or a school of nursing as defined in section 298b of Title 42.

(2) The term "construction" means (A) erection of new or expansion of existing structures, and the acquisition and installation of initial equipment therefor; or (B) acquisition of existing structures not owned by the institution involved; or (C) rehabilitation, alteration, conversion, or improvement (including the acquisition and installation of initial equipment, or modernization or replacement of built-in equipment) of existing structures; or (D) a combination of any two or more of the foregoing. For the purposes of the preceding sentence, the term "equipment" includes, in addition to machinery, utilities, and built-in equipment and any necessary enclosures or structures to house them, all other items necessary for the functioning of a particular facility as an academic facility, including necessary furniture, except books, curricular and program materials and items of current operating expense such as fuel, supplies, and the like; the term "initial equipment" means equipment acquired and installed in connection with construction as defined in paragraph (2) (A) or (B) or, in cases referred to in paragraph (2) (C), equipment acquired and installed as part of the rehabilitation, alteration, conversion, or improvement of an existing structure, which structure would otherwise not be adequate for use as an academic facility; and the terms "equipment", "initial equipment", and "built-in equipment" shall be more particularly defined by the Commissioner by regulation. For the purposes of clause (C) in the first sentence of this paragraph, the term "rehabilitation, alteration, conversion, or improvement" includes such action as may be necessary to provide for the architectural needs of, or to remove architectural barriers to, handicapped persons with a view toward increasing the accessibility to, and use of, academic facilities by such persons.

(3) (A) The term "development cost", with respect to an academic facility, means the amount found by the Commissioner to be the cost, to the applicant for a grant or loan under this subchapter, of the construction involved and the cost of necessary acquisition of the land on which the facility is located and of necessary site improvements to permit its use for such facility. There shall be excluded from the development cost—

(i) in determining the amount of any grant under part A or B, an amount equal to the sum of (I) any Federal grant which the institution has obtained, or is assured of obtaining, under any law other than this subchapter, with respect to the construction that is to be financed with the aid of a grant under part A or B, and (II) the amount of any non-Federal funds required to be expanded as a condition of such other Federal grant; and

(ii) in determining the amount of any loan under part C, an amount equal to the amount of any Federal financial assistance which the institution has obtained, or is assured of obtaining, under any law other than this subchapter, with respect to the construction that is to be financed with the aid of a loan under part C.

(B) In determining the development cost with respect to an academic facility, the Commissioner may include expenditures for works of art for the facility of not to exceed 1 per centum of the total cost (including such expenditures) to the applicant of construction of, and land acquisition and site improvements for, such facility.

(4) The term "Federal share" means, except as provided in section 1132a–5(b)(2) of this title, in the case of any project a percentage (as deter-

mined under the applicable State plan) not in excess of 50 percentum of its development cost.

(5) The term "higher education building agency" means (A) an agency, public authority, or other instrumentality of a State authorized to provide, or finance the construction of, academic facilities for institutions of higher education (whether or not also authorized to provide or finance other facilities for such or other educational institutions, or for their students or faculty), or (B) any corporation (no part of the net earnings of which inures or may lawfully inure to the benefit of any private shareholder or individual) (I) established by an institution of higher education for the sole purpose of providing academic facilities for the use of such institution, and (II) upon dissolution of which, all title to any property purchased or built from the proceeds of any loan made under part C will pass to such institution.

(6) The term "public community college and public technical institute" means an institution of higher education which is under public supervision and control, and is organized and administered principally to provide a two-year program which is acceptable for full credit toward a bachelor's degree, or a two-year program in engineering, mathematics, or the physical or biological sciences which is designed to prepare the student to work as a technician and at a semiprofessional level in engineering, scientific, or other technological fields which require the understanding and application of basic engineering, scientific, or mathematical principles or knowledge; and the term includes a branch of an institution of higher education offering four or more years of higher education which is located in a community different from that in which its parent institution is located.

(7) The term "cooperative graduate center" means an institution or program created by two or more institutions of higher education which will offer to the students of the participating institutions of higher education graduate work which could not be offered with the same proficiency or economy (or both) at the individual institution of higher education. The center may be located or the program carried out on the campus of any of the participating institutions or at a separate location.

(8) The term "cooperative graduate center board" means a duly constituted board established to construct and maintain the cooperative graduate center and coordinate academic programs. The board shall be composed of representatives of each of the institutions of higher education participating in the center and of the community involved. At least one-third of the board's members shall be community representatives. The board shall elect by a majority vote a chairman from among its membership.

(9) The term "public educational institution" does not include a school or institution of any agency of the United States.

(10) The term "State" includes, in addition to the several States of the Union, the Commonwealth of Puerto Rico, the District of Columbia, Guam, American Samoa, the Virgin Islands, and the Trust territory of the Pacific Islands. (Pub. L. 89-329, title VII, § 782, as added Pub. L. 92-318, title I, § 161(a), June 23, 1972, 86 Stat. 301.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1132a-6 and 1132c-2 of this title.

SUBCHAPTER VIII.—NETWORKS FOR KNOWLEDGE

§ 1133. Sharing educational and related resources.

(a) Authorization for projects and grants.

The Commissioner shall carry out a program of encouraging institutions of higher education (including law and other graduate professional schools) to share, to the optimal extent, through cooperative arrangements, their technical and other educational and administrative facilities and resources, and to test and demonstrate the effectiveness and efficiency of a variety of such arrangements, in accordance with this subchapter. The Commissioner is authorized to make grants to, and contracts with, institutions of higher education to pay all or part of the cost of cooperative arrangements and of pilot or demonstration projects designed to accomplish the purpose set forth in the first sentence of this subsection. Such grants may be made to public or nonprofit private colleges or universities. When in the Commissioner's judgment it will more effectively promote the purposes of this subchapter, the Commissioner may make grants to other established public or nonprofit private agencies or organizations, including professional organizations or academic societies and he may enter into contracts with established private agencies and organizations.

(b) Authorized projects.

Projects for the planning, development, or carrying out of such arrangements assisted under this subchapter may, subject to the provisions of subsection (c) of this section, include—

(1) (A) joint use of facilities such as classrooms, libraries, including law libraries, or laboratories, including joint use of necessary books, materials, and equipment; or (B) affording access to specialized library collections, including law library collections, through preparation of interinstitutional catalogs and through development of systems and preparation of suitable media for electronic or other rapid transmission of materials;

* * * * *

(As amended Pub. L. 92-318, title I, § 172(a), June 23, 1972, 86 Stat. 304.)

AMENDMENTS

1972—Subsec. (a). Pub. L. 92-318, § 172(a)(1), made the provisions applicable to institutions of higher education (including law and other graduate professional schools) instead of only to colleges and universities and provided for payment of pilot or demonstration projects designed to accomplish the stated purposes.

Subsec. (b)(1). Pub. L. 92-318, § 172(a)(2), provided for joint use of law libraries in cl. (A) and for access to law library collections in cl. (B).

EFFECTIVE DATE OF 1972 AMENDMENT

Section 172(b) of Pub. L. 92-318 provided that: "The amendments made by subsection (a) [to subsecs. (a) and (b)(1) of this section] shall be effective after June 30, 1972."

§ 1133a. Authorization of appropriations.

There are authorized to be appropriated for the purposes of this subchapter (and planning and related activities in the initial fiscal year for such purpose), $340,000 for the fiscal year ending June 30, 1969, $4,000,000 for the fiscal year ending June 30, 1970, and $15,000,000 for the fiscal year ending June 30, 1971, $5,000,000 for the fiscal year ending June 30, 1972, $10,000,000 for the fiscal year ending June 30, 1973, and $15,000,000 for each of the fiscal years ending June 30, 1974, and June 30, 1975. (As amended Pub. L. 92–318, title I, § 171, June 23, 1972, 86 Stat. 304.)

AMENDMENTS

1972—Pub. L. 92–318 authorized appropriations of $5,000,000, $10,000,000, $15,000,000 and $15,000,000 for fiscal years ending June 30, 1972, through 1975.

EFFECTIVE DATE OF 1972 AMENDMENT

Section 171 of Pub. L. 92–318 provided in part that amendment of this section by Pub. L. 92–318 shall be effective after June 30, 1971.

SUBCHAPTER IX.—GRADUATE PROGRAMS [NEW]

PART A—GRANTS TO INSTITUTIONS OF HIGHER EDUCATION

§ 1134. Congressional declaration of purpose; authorization of appropriations.

(a) It is the purpose of this part to make financial assistance available to institutions of higher education—

(1) to strengthen, improve and where necessary expand the quality of graduate and professional programs leading to an advanced degree (other than a medical degree) in such institutions;

(2) to establish, strengthen, and improve programs designed to prepare graduate and professional students for public service; and

(3) to assist in strengthening undergraduate programs of instruction in the areas described in clauses (2), (3), and (4), whenever the Commissioner determines that strengthened undergraduate programs of instruction will contribute to the purposes of such clauses.

(b) The Commissioner shall carry out a program of making grants to institutions of higher education to carry out the purposes set forth in subsection (a) of this section.

(c) There are authorized to be appropriated $30,000,000 for the fiscal year ending June 30, 1973, $40,000,000 for the fiscal year ending June 30, 1974, and $50,000,000 for the fiscal year ending June 30, 1975, for the purposes of this part. (Pub. L. 89–329, title IX, § 901, as added Pub. L. 92–318, title I, § 181(a), June 23, 1972, 86 Stat. 304.)

CODIFICATION

A prior section 1134, Pub. L. 89–329, title IX, § 901, as added Pub. L. 90–575, title II, § 261, Oct. 16, 1968, 82 Stat. 1043, contained congressional declaration of purpose respecting education for the public service.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1134a, 1134b, 1134k of this title.

§ 1134a. Applications for grants.

(a) Requirements of applications.

The Commissioner is authorized to make grants to institutions of higher education in accordance with the provisions of this part. An institution of higher education desiring to receive a grant under this part shall submit to the Commissioner an application therefor at such time or times, in such manner, and containing such information, as the Commissioner may prescribe by regulation. Such application shall set forth a program of activities for carrying out one or more of the purposes set forth in section 1134(a) of this title in such detail as will enable the Commissioner to determine the degree to which such program will accomplish such purpose or purposes, and such other policies, procedures, and assurance as the Commissioner may require by regulation.

(b) Approval by Commissioner.

The Commissioner shall approve an application only if he determines that the application sets forth a program of activities which are likely to make substantial progress toward achieving the purposes of this part. (Pub. L. 89–329, title IX, § 902, as added Pub. L. 92–318, title I, § 181(a), June 23, 1972, 86 Stat. 305.)

CODIFICATION

A prior section 1134a, Pub. L. 89–329, title IX, § 903, as added Pub. L. 90–575, title II, § 261, Oct. 16, 1968, 82 Stat. 1043, related to project grants and contracts to strengthen and improve education for the public service.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1134b of this title.

§ 1134b. Authorized activities; prohibitions.

(a) The funds appropriated pursuant to section 1134(c) of this title may be used for such purposes as the Commissioner determines will best accomplish the purposes of this part.

(b) Such funds may be used solely for the purposes set forth in an application approved under section 1134a of this title and solely for the purpose of accomplishing the purposes stated in section 1134(a) of this title, and to that end such funds may be used for—

(1) faculty improvement;

(2) the expansion of graduate and professional programs of study;

(3) the acquisition of appropriate instructional equipment and materials;

(4) cooperative arrangements among graduate and professional schools; and

(5) the strengthening of graduate and professional school administration.

(c) No sums granted under this part may be used—

(1) for payment in excess of 66⅔ per centum of the total cost of such project or activity;

(2) for payment in excess of 50 per centum of the cost of the purchase or rental of books, audiovisual aids, scientific apparatus, or other materials or equipment, less any per centum of such cost, as determined by the Commissioner, that is paid from sums received (other than under this part) as Federal financial assistance; or

(3) for sectarian instruction or religious worship, or primarily in connection with any part of the program of a school or department of divinity. (Pub. L. 89–329, title IX, § 903, as added Pub. L. 92–318, title I, §181(a), June 23, 1972, 86 Stat. 305.)

CODIFICATION

A prior section 1134b, Pub. L. 89–329, title IX, § 904, as added Pub. L. 90–575, title II, § 261, Oct. 16, 1968, 82 Stat. 1044, related to application for grants or contracts to strengthen and improve education for the public service, providing in subsec. (a) for requisites of application, subsec. (b) for allocation of grants and contracts, and subsec. (c) for payment of compensation of students employed in public service and participation of Federal agencies and departments.

§ 1134c. Research and studies.

The Commissioner is authorized, directly or by contract, to conduct studies and research activities in connection with the need for, and improvement of, graduate programs in various fields of study in institutions of higher education throughout the United States. (Pub. L. 89–329, title IX, § 904, as added Pub. L. 92–318, title I, § 181(a), June 23, 1972, 86 Stat. 306.)

CODIFICATION

A prior section 1134c, Pub. L. 89–329, title IX, § 911, as added Pub. L. 90–575, title II, § 261, Oct. 16, 1968, 82 Stat. 1044, provided for authorization to award public service fellowships and is now covered by section 1134i of this title.

PART B—GRADUATE FELLOWSHIPS FOR CAREERS IN POSTSECONDARY EDUCATION

§ 1134d. Authorization of appropriations.

There are hereby authorized to be appropriated such sums as may be necessary to carry out the provisions of this part. (Pub. L. 89–329, title IX, § 921, as added Pub. L. 92–318, title I, § 181(a), June 23, 1972, 86 Stat. 306.)

CODIFICATION

A prior section 1134d, Pub. L. 89–329, title IX, § 912, as added Pub. L. 90–575, title II, § 261, Oct. 16, 1968, 82 Stat. 1045, provided for allocation of public service fellowships and is now covered by section 1134j of this title.

§ 1134e. Number of fellowships; award of vacated fellowships.

(a) During the fiscal year ending June 30, 1973, and each of the two succeeding fiscal years, the Commissioner is authorized to award not to exceed seven thousand five hundred fellowships to be used for study in graduate programs at institutions of higher education. Such fellowships may be awarded for such period of study as the Commissioner may determine, but not in excess of three academic years, except (1) that where a fellowship holder pursues his studies as a regularly enrolled student at the institution during periods outside the regular sessions of the graduate program of the institution, a fellowship may be awarded for a period not in excess of three calendar years, and (2) that the Commissioner may provide by regulation for the granting of such fellowships for a period of study not to exceed one academic year (or one calendar year in the case of fellowships to which clause (1) applies) in addition to the maximum period otherwise applicable, under special circumstances in which the purposes of this part would most effectively be served thereby.

(b) In addition to the number of fellowships authorized to be awarded by subsection (a) of this section, the Commissioner is authorized to award fellowships equal to the number previously awarded during any fiscal year under this section but vacated prior to the end of the period for which they were awarded; except that each fellowship awarded under this subsection shall be for such period of study, not in excess of the remainder of the period for which the fellowship which it replaces was awarded, as the Commissioner may determine. (Pub. L. 89–329, title IX, § 922, as added Pub. L. 92–318, title I, § 181(a) June 23, 1972, 86 Stat. 306.)

CODIFICATION

A prior section 1134e, Pub. L. 89–329, title IX, § 913, as added Pub. L. 90–575, title II, § 261, Oct. 16, 1968, 82 Stat. 1045, provided for approval of programs and is now covered by section 1134k of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1134f of this title.

§ 1134f. Award of fellowships and approval of institutions.

(a) Bases for awards; approval by Commissioner.

Of the total number of fellowships authorized by section 1134e(a) of this title to be awarded during a fiscal year (1) not less than one-third shall be awarded to individuals accepted for study in graduate programs approved by the Commissioner under this section, and (2) the remainder shall be awarded on such bases as he may determine, subject to the provisions of subsection (c) of this section. The Commissioner shall approve a graduate program of an institution of higher education only upon application by the institution and only upon his finding that the application contains satisfactory assurance that the institution will provide special orientation and practical experiences designed to prepare its fellowship recipients for academic careers at some level of education beyond the high school.

(b) Criteria for determination of priorities and procedures.

In determining priorities and procedures for the award of fellowships under this section, the Commissioner shall—

(1) take into account present and projected needs for highly trained teachers in all areas of education beyond the high school,

(2) give special attention to those institutions which have developed new doctoral-level programs especially tailored to prepare classroom teachers,

(3) consider the need to prepare a larger number of teachers and other academic leaders from minority groups, but nothing contained in this clause shall be interpreted to require any educational institution to grant preference or disparate treatment to the members of one minority group on account of an imbalance which may exist with respect to the total number or percentage of persons of that group participating in or receiving the benefits of this program, in comparison with the total number or percentage of persons of that group in any community, State, section, or other area.

(4) assure that at least one-half of all new fellowship recipients have demonstrated their competence outside of a higher education setting for at least two years subsequent to the completion of their undergraduate studies,

(5) allow a fellowship recipient to interrupt his studies for up to one year for the purpose of work, travel, or independent study away from the campus except that no stipend or travel expenses may be paid for such period, and

(6) seek to achieve a reasonably equitable geographical distribution of graduate programs approved under this section, based upon such factors as student enrollments in institutions of higher education and population.

(c) Recipients of fellowships.

Recipients of fellowships under this part shall be persons who are interested in an academic career in educational programs beyond the high school level and are pursuing, or intend to pursue, a course of study leading to a degree of doctor of philosophy, doctor of arts, or an equivalent degree.

(d) Prohibition against awards for study at divinity institution.

No fellowship shall be awarded under this part for study at a school or department of divinity. (Pub. L. 89–329, title IX, § 923, as added Pub. L. 92–318, title I, § 181(a), June 23, 1972, 86 Stat. 306.)

CODIFICATION

A prior section 1134f, Pub. L. 89–329, title IX, § 914, as added Pub. L. 90–575, title II, § 261, Oct. 16, 1968, 82 Stat. 1045, provided for stipends for public service fellowships and is now covered by section 1134*l* of this title.

§ 1134g. Payments.

(a) Fellowship stipends.

The Commissioner shall pay to persons awarded fellowships under this part such stipends (including such allowances for subsistence and other expenses for such persons and their dependents) as he may determine to be consistent with prevailing practices under comparable federally supported programs.

(b) Allowances to institution in lieu of tuition.

The Commissioner shall (in addition to the stipends paid to persons under subsection (a) of this section) pay to the institution of higher education at which such person is pursuing his course, of study, in lieu of tuition charged such person, such amounts as the Commissioner may determine to be consistent with prevailing practices under comparable federally supported programs, except that such amount shall not exceed $4,000 per academic year for any such person. (Pub. L. 89–329, title IX, § 924, as added Pub. L. 92–318, title I, § 181(a), June 23, 1972, 86 Stat. 307.)

CODIFICATION

A prior section 1134g, Pub. L. 89–329, title IX, § 915, as added Pub. L. 90–575, title II, § 261, Oct. 16, 1968, 82 Stat. 1045, provided for public service fellowship conditions and is now covered by section 1134m of this title.

§ 1134h. Fellowship conditions; progress reports; certificate.

(a) A person awarded a fellowship under the provisions of this part shall continue to receive the payments provided in section 1064 of this title only during such periods as the Commissioner finds that he is maintaining satisfactory proficiency in, and devoting essentially full time to, study or research in the field in which such fellowship was awarded, in an institution of higher education, and is not engaging in gainful employment other than part-time employment by such institution in teaching, research, or similar activities, approved by the Commissioner.

(b) The Commissioner is authorized to require reports containing such information in such form and to be filed at such times as he determines necessary from any person awarded a fellowship under the provisions of this part. Such reports shall be accompanied by a certificate from an appropriate official at the institution of higher education, library, archive, or other research center approved by the Commissioner, stating that such person is making satisfactory progress in, and is devoting essentially full time to, the program for which the fellowship was awarded. (Pub. L. 89–329, title IX, § 925, as added Pub. L. 92–318, title I, § 181(a), June 23, 1972, 86 Stat. 307.)

CODIFICATION

A prior section 1134h, Pub. L. 89–329, title IX, § 921, as added Pub. L. 90–575, title II, § 261, Oct. 16, 1968, 82 Stat. 1046, defined "State" and "institution of higher education", now covered by section 1141 (b), (a), respectively, of this title, and "public service" and "academic year".

PART C—PUBLIC SERVICE FELLOWSHIPS

§ 1134i. Award of public service fellowships.

(a) Number of fellowships.

During the fiscal year ending June 30, 1973, and each of the two succeeding fiscal years, the Commissioner is authorized to award not to exceed five hundred fellowships in accordance with the provisions of this part for graduate or professional study for persons who plan to pursue a career in public service. Such fellowships shall be awarded for such periods as the Commissioner may determine but not to exceed three academic years.

(b) Authorization of appropriations.

There are hereby authorized to be appropriated such sums as may be necessary to carry out the provisions of this part. (Pub. L. 89–329, title IX, § 941, as added Pub. L. 92–318, title I, § 181(a), June 23, 1972, 86 Stat. 308.)

CODIFICATION

A prior section 1134i, Pub. L. 89–329, title IX, § 922, as added Pub. L. 90–575, title II, § 261, Oct. 16, 1968, 82 Stat. 1046, related to coordination of Federal assistance respecting education for the public service.

PRIOR PROVISIONS

Provisions similar to those comprising subsec. (a) of this section were contained in Pub. L. 89–329, title IX, § 911, as added Pub. L. 90–575, title II, § 261, Oct. 16, 1968, 82 Stat. 1044 (formerly classified to section 1134c of this title prior to the general amendment of Pub. L. 89–329, title IX by section 181(a) of Pub. L. 92–318).

§ 1134j. Allocation of fellowships.

The Commissioner shall allocate fellowships under this part among institutions of higher education with

programs approved under the provisions of this part for the use of individuals accepted into such programs, in such manner and according to such plan as will insofar as practicable—

(1) provide an equitable distribution of such fellowships throughout the United States; and

(2) attract recent college graduates to pursue a career in public service.

(Pub. L. 89–329, title IX, § 942, as added Pub. L. 92–318, title I, § 181(a), June 23, 1972, 86 Stat. 308.)

CODIFICATION

A prior section 1134j, Pub. L. 89–329, title IX, § 923, as added Pub. L. 90–575, title II, § 261, Oct. 16, 1968, 82 Stat. 1046, and amended Pub. L. 92–318, title I, § 131(d)(2)(E), June 23, 1972, 86 Stat. 260, prohibited any grant, contract, or fellowship for study at schools or departments of divinity, and is now covered by section 1134m(c) of this title.

PRIOR PROVISIONS

Provisions similar to those comprising this section were contained in Pub. L. 89–329, title IX, § 912, as added Pub. L. 90–575, title II, § 261, Oct. 16, 1968, 82 Stat. 1045 (formerly classified to section 1134d of this title prior to the general amendment of Pub. L. 89–329, title IX by section 181(a) of Pub. L. 92–318).

§ 1134k. Approval of programs.

The Commissioner shall approve a graduate or professional program of an institution of higher education only upon application by the institution and only upon his findings—

(1) that such program has as a principal or significant objective the education of persons for the public service, or the education of persons in a profession or vocation for whose practitioners there is a significant continuing need in the public service as determined by the Commissioner after such consultation with other agencies as may be appropriate;

(2) that such program is in effect and of high quality, or can readily be put into effect and may reasonably be expected to be of high quality;

(3) that the application describes the relation of such program to any program, activity, research, or development set forth by the applicant in an application, if any, submitted pursuant to section 1134(a)(2) of this title; and

(4) that the application contains satisfactory assurance that (A) the institution will recommend to the Commissioner, for the award of fellowships under this part, for study in such program, only persons of superior promise who have demonstrated to the satisfaction of the institution a serious intent to enter the public service upon completing the program, and (B) the institution will make reasonable continuing efforts to encourage recipients of fellowships under this part, enrolled in such programs, to enter the public service upon completing the program.

(Pub. L. 89–329, title IX, § 943, as added Pub. L. 92–318, title I, § 181(a), June 23, 1972, 86 Stat. 308.)

CODIFICATION

A prior section 1134k, Pub. L. 89–329, title IX, § 924, as added Pub. L. 90–575, title II, § 261, Oct. 16, 1968, 82 Stat. 1046, provided for annual report of the Secretary to the Congress of activities relating to education for the public service.

PRIOR PROVISIONS

Provisions similar to those comprising this section were contained in Pub. L. 89–329, title IX, § 913, as added Pub. L. 90–575, title II, § 261, Oct. 16, 1968, 82 Stat. 1045 (formerly classified to section 1134e of this title prior to the general amendment of Pub. L. 89–329, title IX by section 181(a) of Pub. L. 92–318).

§ 1134*l*. Payments.

(a) Fellowship stipends.

The Commissioner shall pay to persons awarded fellowships under this part such stipends (including such allowances for subsistence and other expenses for such persons and their dependents) as he may determine to be consistent with prevailing practices under comparable federally supported programs.

(b) Allowances to institution.

The Commissioner shall (in addition to the stipends paid to persons under subsection (a) of this section) pay to the institution of higher education at which such person is pursuing his course of study such amount as the Commissioner may determine to be consistent with prevailing practices under comparable federally supported programs. (Pub. L. 89–329, title IX, § 944, as added Pub. L. 92–318, title I, § 181(a), June 23, 1972, 86 Stat. 309.)

CODIFICATION

A prior section 1134*l*, Pub. L. 89–329, title IX, § 925, as added Pub. L. 90–575, title II, § 261, Oct. 16, 1968, 82 Stat. 1046, authorized appropriations for education for the public service and is now covered by section 1134i of this title.

PRIOR PROVISIONS

Provisions similar to those comprising this section were contained in Pub. L. 89–329, title IX, § 914, as added Pub. L. 90–575, title II, § 261, Oct. 16, 1968, 82 Stat. 1045 (formerly classified to section 1134f of this title prior to the general amendment of Pub. L. 89–329, title IX by section 181(a) of Pub. L. 92–318).

§ 1134m. Fellowship conditions; progress reports; certificate; prohibition against awards for study at divinity institution.

(a) A person awarded a fellowship under the provisions of this part shall continue to receive the payments provided in this part only during such periods as the Commissioner finds that he is maintaining satisfactory proficiency and devoting full time to study or research in the field in which such fellowship was awarded in an institution of higher education, and is not engaging in gainful employment other than employment approved by the Commissioner by or pursuant to regulation.

(b) The Commissioner is authorized to require reports containing such information in such form and to be filed at such times as he determines necessary from any person awarded a fellowship under the provisions of this part. Such reports shall be accompanied by a certificate from an appropriate official at the institution of higher education, library, archive, or other research center approved by the Commissioner, stating that such person is making satisfactory progress in, and is devoting essentially full time to, the program for which the fellowship was awarded.

(c) No fellowship shall be awarded under this part for study at a school or department of divinity.

(Pub. L. 89–329, title IX, § 945, as added Pub. L. 92–318, title I, § 181(a), June 23, 1972, 86 Stat. 309.)

PRIOR PROVISIONS

Provisions similar to those comprising subsec. (a) of this section were contained in Pub. L. 89–329, title IX, § 915, as added Pub. L. 90–575, title II, § 261, Oct. 16, 1968, 82 Stat. 1045 (formerly classified to section 1134g of this title prior to the general amendment of Pub. L. 89–329, title IX by section 181(a) of Pub. L. 92–318).

PART D—FELLOWSHIPS FOR OTHER PURPOSES

§ 1134n. Program authorization.

(a) Statement of purpose; regulations.

It is the purpose of this part to provide fellowships—

(1) to assist graduate students of exceptional ability who demonstrate a financial need for advanced study in domestic mining and mineral and mineral fuel conservation including oil, gas, coal, oil shale, and uranium; and

(2) for persons of ability from disadvantaged backgrounds, as determined by the Commissioner, undertaking graduate or professional study.

The demonstration of financial need shall be determined in accordance with regulations prescribed by the Commissioner.

(b) Number of fellowships; appropriation limitation; award of vacated fellowships.

(1) The Commissioner is authorized to award under the provisions of this part not to exceed five hundred fellowships for the fiscal year ending June 30, 1973, and for each of the two succeeding fiscal years. Appropriations made pursuant to section 1134r of this title for fellowships awarded under clause (2) of subsection (a) of this section may not exceed $1,000,000 in any fiscal year.

(2) In addition to the number of fellowships authorized to be awarded under paragraph (1), the Commissioner is authorized to award fellowships equal to the number previously awarded during any fiscal year under this part but vacated prior to the end of the period for which they were awarded except that each fellowship awarded under this paragraph shall be for such period of graduate or professional work or research not in excess of the remainder of the period for which the fellowship it replaces was awarded as the Commissioner may determine.

(c) Advanced degree or doctoral dissertation.

Fellowships awarded under this part shall be for graduate and professional study leading to an advanced degree or research incident to the presentation of a doctoral dissertation. Such fellowships may be awarded for graduate and professional study and research at any institution of higher education or any other research center approved for such purpose by the Commissioner. Such fellowships shall be awarded for such periods as the Commissioner may determine but not to exceed three years. (Pub. L. 89–329, title IX, § 961, as added Pub. L. 92–318, title I, § 181(a), June 23, 1972, 86 Stat. 309.)

§ 1134o. Award of fellowships.

Recipients of fellowships under this part shall be—

(1) persons who have been accepted by an institution of higher education for graduate study leading to an advanced degree or for a professional degree, or

(2) persons who have completed all course work required for granting of a doctoral degree or an equivalent degree(except such course work credited on the dissertation) and comprehensive examinations where appropriate, and whose doctoral dissertation (or other equivalent dissertation) proposal has been approved by appropriate officials of an institution of higher education.

(Pub. L. 89–329, title IX, § 962, as added Pub. L. 92–318, title I, § 181(a), June 23, 1972, 86 Stat. 310.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1134r–1 of this title.

§ 1134p. Payments.

(a) Fellowship stipends; allowance for dependents.

The Commissioner shall pay to persons awarded fellowships under this part such stipends as he may determine to be consistent with prevailing practices under comparable federally supported programs, except that the stipend shall not be less than $2,800 for each academic year study. An additional amount of $300 for each such year shall be paid to each such person on account of each of his dependents, not to exceed the amount of $1,500 per academic year.

(b) Allowances to institutions.

In addition to the amount paid to persons pursuant to subsection (a) of this section there shall be paid to the institution of higher education at which each such person is pursuing his course of study an amount equal to 150 per centum of the amount paid to such person, less the amount paid on account of each of such person's dependents, to such person, less any amount charged such person for tuition.

(c) Travel allowances.

The Commissioner shall reimburse any person awarded a fellowship pursuant to this part for actual and necessary traveling expenses of such person and his dependents from his ordinary place of residence to the institution of higher education, library, archive, or other research center where he will pursue his studies under such fellowship, and to return to such residence.(Pub. L. 89–329, title IX, § 963, as added Pub. L. 92–318, title I, § 181(a), June 23, 1972, 86 Stat. 310.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1134r–1 of this title.

§ 1134q. Fellowship conditions; progress reports; certificate; prohibition against awards for study at divinity institution.

(a) A person awarded a fellowship under the provisions of this part shall continue to receive the payments provided in this part only during such periods as the Commissioner finds that he is maintaining satisfactory proficiency and devoting full time to study or research in the field in which such fellowship was awarded in an institution of higher education, and is not engaging in gainful employment

other than employment approved by the Commissioner by or pursuant to regulation.

(b) The Commissioner is authorized to require reports containing such information in such form and to be filed at such times as he determines necessary from any person awarded a fellowship under the provisions of this part. Such reports shall be accompanied by a certificate from an appropriate official at the institution of higher education, library, archive, or other research center approved by the Commissioner, stating that such person is making satisfactory progress in, and is devoting essentially full time to, the program for which the fellowship was awarded.

(c) No fellowship shall be awarded under this subchapter [1] for study at a school or department of divinity. (Pub. L. 89–329, title IX, § 964, as added Pub. L. 92–318, title I, § 181(a), June 23, 1972, 86 Stat. 311.)

§ 1134r. Authorization of appropriations.

There are authorized to be appropriated such sums as may be necessary for the purposes of this part. (Pub. L. 89–329, title IX, § 965, as added Pub. L. 92–318, title I, § 181(a), June 23, 1972, 86 Stat. 311.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1134n of this title.

§ 1134r–1. Assistance for training in legal profession.

(a) Grant and contract authorization of Commissioner; eligible individuals.

The Commissioner is authorized prior to July 1, 1978, to make grants to, or enter into contracts with, public and private agencies and organizations other than institutions of higher education for the purpose of assisting individuals from disadvantaged backgrounds, as determined in accordance with criteria prescribed by the Commissioner, to undertake training for the legal profession.

(b) Description of activities; regulations.

Grants made, and contracts entered into under, subsection (a) of this section may cover, in accordance with regulations of the Commissioner, all or part of the cost of—

(1) selecting individuals from disadvantaged backgrounds for training for the legal profession,

(2) facilitating the entry of such individuals into institutions of higher education for the purpose of pursuing such training,

(3) providing counseling or other services designed to assist such individuals to complete successfully such training,

(4) providing, for not more than three months prior to the entry of such individuals upon their courses of training for the legal profession, preliminary training for such individuals designed to assist them to complete successfully such training for the legal profession.

(5) paying such stipends (including allowances for travel and for dependents) as the Commissioner may determine for such individuals for any such period of preliminary training or for any period of training for the legal profession during which such individuals maintain satisfactory academic proficiency, as determined by the Commissioner, and

(6) paying for administrative activities of the agencies and organizations which receive such grants, or with which such contracts are entered into, to the extent such activities are for the purpose of furthering activities described in clauses (1) through (5).

(c) Requirements and limitations of sections 1134o and 1134p of this title inapplicable.

The activities authorized under this section may be carried out without regard to the requirements and limitations set forth in sections 1134o and 1134p of this title. (Pub. L. 89–329, title IX, § 966, as added Pub. L. 93–380, title VIII, § 836(a), Aug. 21, 1974, 88 Stat. 605.)

EFFECTIVE DATE

Section 836(b) of Pub. L. 93–380 provided that: "The amendment made by subsection (a) [enacting this section] shall become effective on September 1, 1974."

PART F [2]—GENERAL ASSISTANCE TO GRADUATE SCHOOLS

PART REFERRED TO IN OTHER SECTIONS

This part is referred to in section 1070e of this title.

§ 1134s. General assistance grants.

(a) Eligible institutions of higher education.

Each institution of higher education shall, during the period beginning July 1, 1972 and ending June 30, 1975, be entitled to a general assistance grant (hereinafter in this section referred to as "grant") in accordance with the provisions of this section.

(b) Amount of grants.

The amount of a grant to which an institution shall be entitled for any fiscal year shall be $200 multiplied by the number of students in full-time enrollment (including the full-time equivalent of the part-time enrollment for credit) at such institution who are pursuing a program of post-baccalaureate study.

(c) Applications for grants; time and manner of submission; approval conditions; waiver.

In order to be eligible for the grant to which it is entitled, an institution shall make application therefor to the Commissioner. Such application shall be submitted at such time or times and in such manner as the Commissioner shall prescribe by regulation. Such application shall be approved if the Commissioner determines that it—

(1) describes general educational goals and specific objectives of the graduate programs of the institution, and the amount of institutional income needed to meet such goals and objectives;

(2) provides satisfactory assurance that—

(A) the proceeds of the grant will be used for programs of the applicant consistent with such goals and objectives,

(B) current operating support from non-Federal sources for educationally related graduate programs of the applicant has not been reduced in anticipation of funds to be received under this section, and

[1] Probably should read "part" instead of "subchapter".

[2] Subchapter was enacted without a Part E.

(C) the applicant will make such reports as the Commissioner may require including a summary report describing how the grant was expended and an evaluation of its effectiveness in achieving such goals and objectives; and

(3) contains such provisions as the Commissioner may require by regulation in order to protect the financial interests of the United States.

The Commissioner may waive the requirement set forth in clause (2) (B) in the preceding sentence for any fiscal year if he determines, in accordance with criteria prescribed by regulation, that such waiver would promote the purposes of this section.

(d) Payments; reductions.

(1) The Commissioner shall pay to each applicant the amount for which it is eligible under this section.

(2) If, during any period, the funds available for making payments pursuant to paragraph (1) are insufficient to satisfy fully the amounts for which all institutions are eligible under this section, the amounts for which all applicants are eligible shall be ratably reduced.

(e) Prohibition against grants for supporting divinity institution or for religious worship or sectarian instruction.

None of the proceeds from a grant may be used to support a school or department of divinity or for religious worship or sectarian instruction.

(f) Report to Congress.

The Commissioner shall report to Congress not later than 120 days after the end of each fiscal year regarding the effectiveness of assistance under this section in achieving the goals and objectives of institutions of higher education and in encouraging diversity and autonomy among such institutions of higher education. The Commissioner, in such report, shall include such recommendations as may be appropriate regarding the continuation, modification, or extension of assistance under this section. (Pub. L. 89–329, title IX, § 981, as added Pub. L. 92–318, title X, § 1001(b), June 23, 1972, 86 Stat. 380.)

PAYMENTS LIMITATION

Total of payments under this part not to exceed $1,000,000,000 during any fiscal year, see section 1001(d) of Pub. L. 92–318, set out as a note under section 1070e of this title.

SUBCHAPTER X.—COMMUNITY COLLEGES AND OCCUPATIONAL EDUCATION [NEW]

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 1142a, 1142b of this title.

PART A.—ESTABLISHMENT AND EXPANSION OF COMMUNITY COLLEGES

PART REFERRED TO IN OTHER SECTIONS

This part is referred to in section 1135b–2 of this title.

Subpart 1.—Statewide Plans

§ 1135. Statewide plans; advisory councils on community colleges; authorization of appropriations.

(a) Each State Commission (established or designated under section 1142a of this title) of each State which desires to receive assistance under this subpart shall deevlop a statewide plan for the expansion or improvement of postsecondary education programs in community colleges or both. Such plan shall among other things—

(1) designate areas, if any, of the State in which residents do not have access to at least two years of tuition-free or low-tuition postsecondary education within reasonable distance;

(2) set forth a comprehensive statewide plan for the establishment, or expansion, and improvement of community colleges, or both, which would achieve the goal of making available, to all residents of the State an opportunity to attend a community college (as defined in section 1135a–7 of this title);

(3) establish priorities for the use of Federal and non-Federal financial and other resources which would be necessary to achieve the goal set forth in clause (2);

(4) make recommendations with respect to adequate State and local financial support, within the priorities set forth pursuant to clause (3), for community colleges;

(5) set forth a statement analyzing the duplications of post-secondary educational programs and make recommendations for the coordination of such programs in order to eliminate unnecessary or excessive duplications; and

(6) set forth a plan for the use of existing and new educational resources in the State in order to achieve the goal set forth in clause (2), including recommendations for the modification of State plans for federally assisted vocational education, community services, and academic facilities as they may affect community colleges.

In carrying out its responsibilities under this subsection, each State Commission shall establish an advisory council on community colleges which shall—

(A) be composed of—

(i) a substantial number of persons in the State (including representatives of State and local agencies) having responsibility for the operation of community colleges;

(ii) representatives of State agencies having responsibility for or an interest in postsecondary education; and

(iii) the general public;

(B) have responsibility for assisting and making recommendations to the State Commission in developing the statewide plan required under this section;

(C) conduct such hearings as the State Commission may deem advisable; and

(D) pursuant to requirements established by the State Commission, provide each State and local agency within the State responsible for postsecondary education an opportunity to review and make recommendations with respect to such plan.

(b) (1) There is hereby authorized to be appropriated $15,700,000 during the period beginning July 1, 1972, and ending June 30, 1975, to carry out the provisions of this section.

(2) Sums appropriated pursuant to paragraph (1) shall be allotted by the Commissioner equally among the States, except that the amount allotted to Guam, American Samoa, and the Virgin Islands shall not exceed $100,000 each. Such sums shall remain available until expended.

(c) Each plan developed and adopted pursuant to subsection (a) of this section shall be submitted to the Commissioner for his approval. The Commissioner shall not approve any plan unless he determines that it fulfills the requirements of this section. (Pub. L. 89–329, title X, § 1001, as added Pub. L. 92–318, title I, § 186(a)(1), June 23, 1972, 86 Stat. 312, and amended Pub. L. 93–380, title VIII, § 837, Aug. 21, 1974, 88 Stat. 606.)

CODIFICATION

A prior section 1135, Pub. L. 89–329, title X, § 1001, as added Pub. L. 90–575, title II, § 271, Oct. 16, 1968 82 Stat. 1047, contained Congressional statement of purpose respecting improvement of graduate programs and is now covered by section 1134(a)(1) of this title.

AMENDMENT

1974—Subsec. (b)(1). Pub. L. 93–380 substituted "1975" for "1974".

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment by Pub. L. 93–380 effective on and after sixtieth day after Aug. 21, 1974, see section 2(c) of Pub. L. 93–380, set out as a note under section 241b of this title.

EFFECTIVE DATE

Section 186(b) of Pub. L. 92–318 provided that: "The amendments made by subsection (a) [enacting this subchapter] shall be effective after June 30, 1972."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1135a–1, 1135a–5 of this title.

Subpart 2—Establishment and Expansion of Community Colleges

§ 1135a. Program authorization; authorization of appropriations.

(a) In order to encourage and assist those States and localities which so desire in establishing or expanding community colleges, or both, the Commissioner shall carry out a program as provided in this subpart for making grants to community colleges in order to improve educational opportunities available through community colleges in such States.

(b) For the purpose of carrying out this subpart, there are authorized to be appropriated $50,000,000 for the fiscal year ending June 30, 1973, $75,000,000 for the fiscal year ending June 30, 1974, and $150,000,000 for the fiscal year ending June 30, 1975. (Pub. L. 89–329, title X, § 1011, as added Pub. L. 92–318, title I, § 186(a)(1), June 23, 1972, 86 Stat. 313.)

CODIFICATION

A prior section 1135a, Pub. L. 89–329, title X, § 1002, as added Pub. L. 90–575, title II, § 271, Oct. 16, 1968, 82 Stat. 1047, authorized appropriations, provided for types of programs, and prescribed limitations respecting improvement of graduate programs and is now covered by sections 1134(c) and 1134b of this title.

EFFECTIVE DATE

Section effective after June 30, 1972, see section 186(b) of Pub. L. 92–318, set out as a note under section 1135 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1135a–1, 1135a–5 of this title.

§ 1135a–1. Apportionments; State defined.

(a) From the sums appropriated pursuant to section 1135a(b) of this title for each fiscal year the Commissioner shall apportion not more than 5 per centum thereof among Puerto Rico, Guam, American Samoa and the Virgin Islands according to their respective needs. From the remainder of such sums the Commissioner shall apportion to each State an amount which bears the same ratio to such remainder as the population aged eighteen and over in such State bears to the total of such population in all States. For the purpose of the second sentence of this subsection, the term "State" does not include Puerto Rico, Guam, American Samoa and the Virgin Islands.

(b) The portion of any State's apportionment under subsection (a) of this section for a fiscal year which the Commissioner determines will not be required, for the period such apportionment is available, for carrying out the purposes of this subpart shall be available for reapportionment from time to time, on such dates during such period as the Commissioner shall fix, to other States in proportion to the original apportionments to such States under subsection (a) of this section for such year but with such proportionate amount for any of such other States being reduced to the extent it exceeds the sum which the Commissioner estimates such State needs and will be able to use for such period for carrying out such portion of its State plan referred to in section 1135(a)(2) of this title approved under this subpart, and the total of such reductions shall be similarly reapportioned among the States whose proportionate amounts are not so reduced. Any amount reapportioned to a State under this subsection during a year shall be deemed part of its apportionment under subsection (a) of this section for such year. (Pub. L. 89–329, title X, § 1012, as added Pub. L. 92–318, title I, § 186(a)(1), June 23, 1972, 86 Stat. 313.)

EFFECTIVE DATE

Section effective after June 30, 1972, see section 186(b) of Pub. L. 92–318, set out as a note under section 1135 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1135a–6 of this title.

§ 1135a–2. Establishment grants; new community college defined.

(a) The Commissioner is authorized to make grants to new community colleges to assist them in planning, developing, establishing, and conducting initial operations of new community colleges in areas of the States in which there are no existing community colleges or in which existing community colleges cannot adequately provide postsecondary educational opportunities for all of the residents thereof who desire and can benefit from postsecondary education.

(b) For the purposes of subsection (a) of this section, the term "new community college" means a board of trustees or other governing board (or its equivalent) which is established by, or pursuant to, the law of a State, or local government, for the purpose of establishing a community college, as defined in section 1135a–7 of this title, or any existing board so established which has the authority to create, and is in the process of establishing, a new community college. (Pub. L. 89–329, title X, § 1013, as added Pub. L. 92–318, title I, § 186(a)(1), June 23, 1972, 86 Stat. 314.)

EFFECTIVE DATE

Section effective after June 30, 1972, see section 186(b) of Pub. L. 92–318, set out as a note under section 1135 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1135a–4, 1135a–5 of this title.

§ 1135a–3. Expansion grants.

The Commissioner is authorized to make grants to existing community colleges to assist them—

(1) in expanding their enrollment capacities,

(2) in establishing new campuses, and

(3) in altering or modifying their educational programs,

in order that they may (A) more adequately meet the needs, interests, and potential benefits of the communities they serve, or (B) provide educational programs especially suited to the needs of educationally disadvantaged persons residing in such communities. (Pub. L. 89–329, title X, § 1014, as added Pub. L. 92–318, title I, § 186(a)(1), June 23, 1972, 86 Stat. 314.)

EFFECTIVE DATE

Section effective after June 30, 1972, see section 186(b) of Pub. L. 92–318, set out as a note under section 1135 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1135a–4, 1135a–5 of this title.

§ 1135a–4. Lease of facilities; Federal share; limitations.

(a) The Commissioner is authorized to make grants to community colleges to enable them to lease facilities, for a period of not to exceed five years, in connection with activities carried out by them under section 1135a–2 or section 1135a–3 of this title.

(b) The Federal share of carrying out a project through a grant under this section shall not exceed—

(1) 70 per centum of the cost of such project for the first year of assistance under this section;

(2) 50 per centum thereof for the second such year;

(3) 30 per centum thereof for the third such year; and

(4) 10 per centum thereof for the fourth such year.

(Pub. L. 89–329, title X, § 1015, as added Pub. L. 92–318, title I, § 186(a)(1), June 23, 1972, 86 Stat. 314.)

EFFECTIVE DATE

Section effective after June 30, 1972, see section 186(b) of Pub. L. 92–318, set out as a note under section 1135 of this title.

§ 1135a–5. Applications; Federal share; limitations.

(a)(1) Grants under sections 1135a–2 and 1135a–3 of this title may be made only upon application to the Commissioner. Applications for assistance under such sections shall be submitted at such time, in such manner and form, and containing such information as the Commissioner shall require by regulation.

(2) No application submitted pursuant to paragraph (1) shall be approved unless the Commissioner determines that it is consistent with the plan approved by him under section 1135 of this title from the State in which the applicant is located.

(b)(1) No application for assistance under section 1135a–2 or 1135a–3 of this title shall be approved for a period of assistance in excess of four years.

(2) The Federal share of the cost of carrying out the project for which assistance is sought in an application submitted pursuant to this section shall not exceed—

(A) 40 per centum of such cost for the first year of assistance;

(B) 30 per centum thereof for the second year of assistance;

(C) 20 per centum thereof for the third year of assistance; and

(D) 10 per centum thereof for the fourth year of assistance.

(c)(1) Funds appropriated pursuant to section 1135a of this title and granted under section 1135a–2 or 1135a–3 of this title shall, subject to paragraph (2), be available for those activities the Commissioner determines to be necessary to carry out the purposes of such sections.

(2) Such funds may be used (A) to remodel or renovate existing facilities, or (B) to equip new and existing facilities, but such funds may not be used for the construction of new facilities or the acquisition of existing facilities. (Pub. L. 89–329, title X, § 1016, as added Pub. L. 92–318, title I, § 186(a)(1), June 23, 1972, 86 Stat. 315.)

EFFECTIVE DATE

Section effective after June 30, 1972, see section 186(b) of Pub. L. 92–318, set out as a note under section 1135 of this title.

§ 1135a–6. Payments.

From the amount apportioned to each State pursuant to section 1135a–1 of this title, the Commissioner shall pay to each applicant from that State which has had an application for assistance approved under this subpart the Federal share of the amount expended under such application. (Pub. L. 89–329, title X, § 1017, as added Pub. L. 92–318, title I, § 186(a)(1), June 23, 1972, 86 Stat. 315.)

EFFECTIVE DATE

Section effective after June 30, 1972, see section 186(b) of Pub. L. 92–318, set out as a note under section 1135 of this title.

§ 1135a–7. Definitions.

As used in this subchapter, the term "community college" means any junior college, postsecondary vocational school, technical institute, or any other educational institution (which may include a four-year institution of higher education or a branch thereof) in any State which—

(1) is legally authorized within such State to provide a program of education beyond secondary education;

(2) admits as regular students persons who are high school graduates or the equivalent, or at least 18 years of age;

(3) provides a two-year postsecondary educational program leading to an associate degree, or acceptable for credit toward a bachelor's degree, and also provides programs of postsecondary vocational, technical, occupational, and specialized education;

(4) is a public or other nonprofit institution;

(5) is accredited as an institution by a nationally recognized accrediting agency or association, or if not so accredited—

(A) is an institution that has obtained recognized preaccreditation status from a nationally recognized accrediting body, or

(B) is an institution whose credits are accepted on transfer, by not less than three accredited institutions, for credit on the same basis as if transferred from an institution so accredited.

(Pub. L. 89–329, title X, § 1018, as added Pub. L. 92–318, title I, § 186(a)(1), June 23, 1972, 86 Stat. 315.)

EFFECTIVE DATE

Section effective after June 30, 1972, see section 186(b) of Pub. L. 92–318, set out as a note under section 1135 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1135, 1135a–2 of this title.

PART B.—OCCUPATIONAL EDUCATION PROGRAMS

PART REFERRED TO IN OTHER SECTIONS

This part is referred to in section 1244 of this title.

§ 1135b. Authorization of appropriations.

For the purpose of carrying out this part, there are hereby authorized to be appropriated $100,000,000 for the fiscal year ending June 30, 1973, $250,000,000 for the fiscal year ending June 30, 1974, and $500,000,000 for the fiscal year ending June 30, 1975. Eighty per centum of the funds appropriated for the first year for which funds are appropriated under this section shall be available for the purposes of establishing administrative arrangements under section 1135b–4 of this title, making planning grants under section 1135b–5 of this title, and for initiating programs under section 1135b–6 of this title in those States which have complied with the planning requirements of section 1135b–5 of this title; and 20 per centum shall be available only for technical assistance under section 1135b–8(a) of this title. From the amount appropriated for each succeeding fiscal year 15 per centum shall be reserved to the Commissioner for grants and contracts pursuant to section 1135b–8(b) of this title. (Pub. L. 89–329, title X, § 1051, as added Pub. L. 92–318, title I, § 186(a)(1), June 23, 1972, 86 Stat. 316.)

CODIFICATION

A prior section 1135b, Pub. L. 89–329, title X, § 1003, as added Pub. L. 90–575, title II, § 271, Oct. 16, 1968, 82 Stat. 1048, related to selection of grant recipients for improvement of graduate programs.

EFFECTIVE DATE

Section effective after June 30, 1972, see section 186(b) of Pub. L. 92–318, set out as a note under section 1135 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1135b–1, 1135b–8 of this title.

§ 1135b–1. Allotments and reallotments among States.

(a) From the sums appropriated under section 1135b of this title for the first year for which funds are appropriated under that section (other than funds available only for technical assistance), the Commissioner shall first allot such sums as they may require (but not to exceed $50,000 each) to American Samoa and the Trust Territory of the Pacific Islands. From the remainder of such sums he shall allot to each State an amount which bears the same ratio to such remainder as the number of persons sixteen years of age or older in such State bears to the number of such persons in all the States, except that the amount allotted to each State shall not be less than $100,000.

(b) From the sums appropriated for any succeeding fiscal year under such section (other than funds reserved to the Commissioner), the Commissioner shall first allot such sums as they may require (but not to exceed $500,000 each) to American Samoa and the Trust Territory of the Pacific Islands. From the remainder of such sums he shall allot to each State an amount which bears the same ratio to such remainder as the number of persons sixteen years of age or older in such State bears to the number of such persons in all the States, except that the amount allotted to each State shall not be less than $500,000.

(c) The portion of any State's allotment under subsection (a) or (b) of this section for a fiscal year which the Commissioner determines will not be required, for the period such allotment is available, for carrying out the purposes of this part shall be available for reallotment from time to time, on such date or dates during such periods as the Commissioner may fix, to other States in proportion to the original allotments to such States under subsection (a) or (b) of this section for such year, but with such proportionate amount for any of such other States being reduced to the extent it exceeds the sum which the Commissioner estimates such States need and will be able to use for such period, and the total of such reductions shall be similarly reallotted among the States whose proportionate amounts are not so reduced. Any amount reallotted to a State under this subsection during a year shall be deemed part of its allotment under subsection (a) or (b) of this section for such year. (Pub. L. 89–329, title X, § 1052, as added Pub. L. 92–318, title I, § 186(a)(1), June 23, 1972, 86 Stat. 316.)

EFFECTIVE DATE

Section effective after June 30, 1972, see section 186(b) of Pub. L. 92–318, set out as a note under section 1135 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1135b–5, 1135b–6, 1135b–9 of this title.

§ 1135b–2. Federal administration.

The Secretary shall develop and carry out a program designed to promote and encourage occupational education, which program shall—

(1) provide for the administration by the Commissioner of Education of grants to the States authorized by this part;

(2) assure that manpower needs in subprofessional occupations in education, health, rehabilitation, and community and welfare services are adequately considered in the development of programs under this part:

(3) promote and encourage the coordination of programs developed under this part with those supported under part A of this subchapter, the Vocational Education Act of 1963, the Manpower Development and Training Act of 1962, title I of the Economic Opportunity Act of 1964, the Publice Health Service Act, and related activities administered by various departments and agencies of the Federal Government; and

(4) provide for the continuous assessment of needs in occupational education and for the continuous evaluation of programs supported under the authority of this part and of related provisions of law.

(Pub. L. 89–329, title X, § 1053, as added Pub. L. 92–318, title I, § 186(a)(1), June 23, 1972, 86 Stat. 317.)

REFERENCES IN TEXT

Vocational Education Act of 1963, referred to in cl. (3), is classified to chapter 32 of this title.

Manpower Development and Training Act of 1962, referred to in cl. (3), was, prior to repeal, classified to chapter 30 of Title 42, The Public Health and Welfare, and is now covered by section 801 et seq. of Title 29.

Title I of the Economic Opportunity Act of 1964, referred to in cl. (3), was, prior to repeal, classified to section 2711 et seq. of Title 42, and is now covered by section 911 et seq. of Title 29.

Public Health Service Act, referred to in cl. (3), is classified to chapter 6A of Title 42.

EFFECTIVE DATE

Section effective after June 30, 1972, see section 186(b) of Pub. L. 92–318, set out as a note under section 1135 of this title.

§ 1135b–3. General responsibilities of Commissioner of Education.

The Commissioner shall, in addition to the specific responsibilities imposed by this part, develop and carry out a program of occupational education that will—

(1) coordinate all programs administered by the Commissioner which specifically relate to the provisions of this part so as to provide the maximum practicable support for the objectives of this part;

(2) promote and encourage occupational preparation, counseling and guidance, and job placement or placement in postsecondary occupational education programs as a responsibility of elementary and secondary schools;

(3) utilize research and demonstration programs administered by him to assist in the development of new and improved instructional methods and technology for occupational education and in the design and testing of models of schools or school systems which place occupational education on an equal footing with academic education;

(4) assure that the Education Professions Development Act and similar programs of general application will be so administered as to provide a degree of support for vocational, technical, and occupational education commensurate with national needs and more nearly representative of the relative size of the population to be served; and

(5) develop and disseminate accurate information on the status of occupational education in all parts of the Nation, at all levels of education, and in all types of institutions, together with information on occupational opportunities available to persons of all ages.

(Pub. L. 89–329, title X, § 1054, as added Pub. L. 92–318, title I, § 186(a)(1), June 23, 1972, 86 Stat. 317.)

REFERENCES IN TEXT

Education Professions Development Act, referred to in cl. (4), is classified to section 1091 et seq. of this title.

EFFECTIVE DATE

Section effective after June 30, 1972, see section 186(b) of Pub. L. 92–318, set out as a note under section 1135 of this title.

§ 1135b–4. State administration.

(a) Any State desiring to participate in the program authorized by this part shall in accordance with State law establish a State agency or designate an existing State agency which will have sole responsibility for fiscal management and administration of the program, in accordance with the plan approved under this part, and which adopts administrative arrangements which will provide assurances satisfactory to the Commissioner that—

(1) the State Advisory Council on Vocational Education will be charged with the same responsibilities with respect to the program authorized by this part as it has with respect to programs authorized under the Vocational Education Act of 1963;

(2) there is adequate provision for individual institutions or groups of institutions and for local educational agencies to appeal and obtain a hearing from the State administrative agency with respect to policies, procedures, programs, or allocation of resources under this part with which such institution or institutions or such agencies disagree.

(b) The Commissioner shall approve any administrative arrangements which meet the requirements of subsection (a) of this section, and shall not finally disapprove any such arrangements without affording the State administrative agency a reasonable opportunity for a hearing. Upon the final disapproval of any arrangement, the provisions for judicial review set forth in section 1135b–7(b) of this title shall be applicable. (Pub. L. 89–329, title X, § 1055, as added Pub. L. 92–318, title I, § 186(a)(1), June 23, 1972, 86 Stat. 318.)

REFERENCES IN TEXT

Vocational Education Act of 1963, referred to in subsec. (a)(1), is classified to chapter 32 of this title.

EFFECTIVE DATE

Section effective after June 30, 1972, see section 186(b) of Pub. L. 92–318, set out as a note under section 1135 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1135b, 1135b–6, 1135b–7, 1135b–8 of this title.

§ 1135b–5. Planning grants for State occupational education programs.

(a) Upon the application of a State Commission (established or designated pursuant to section 1142a of this title), the Commissioner shall make available to the State the amount of its allotment under section 1135b–1 of this title for the following purposes—

(1) to strengthen the State Advisory Council on Vocational Education in order that it may effectively carry out the additional functions imposed by this part; and

(2) to enable the State Commission to initiate and conduct a comprehensive program of planning for the establishment of the program authorized by this part.

(b) (1) Planning activities initiated under clause (2) of subsection (a) of this section shall include—

(A) an assessment of the existing capabilities and facilities for the provision of postsecondary occupational education, together with existing needs and projected needs for such education in all parts of the State;

(B) thorough consideration of the most effective means of utilizing all existing institutions within the State capable of providing the kinds of programs assisted under this part, including (but not limited to) both private and public community and junior colleges, area vocational schools, accredited private proprietary institutions, technical institutes, manpower skill centers, branch institutions of State colleges or universities, and public and private colleges and universities;

(C) the development of an administrative procedure which provides reasonable promise for resolving differences between vocational educators, community and junior college educators, college and university educators, elementary and secondary educators, and other interested groups with respect to the administration of the program authorized under this part; and

(D) the development of a long-range strategy for infusing occupational education (including general orientation, counseling and guidance, and placement either in a job or in postsecondary occupational programs) into elementary and secondary schools on an equal footing with traditional academic education, to the end that every child who leaves secondary school is prepared either to enter productive employment or to undertake additional education at the postsecondary level, but without being forced prematurely to make an irrevocable commitment to a particular educational or occupational choice; and

(E) the development of procedures to insure continuous planning and evaluation, including the regular collection of data which would be readily available to the State administrative agency, the State Advisory Council on Vocational Education, individual educational institutions, and other interested parties (including concerned private citizens).

(2) Planning activities carried on by the State Commission under this section shall involve the active participation of—

(A) the State board for vocational education;

(B) the State agency having responsibility for community and junior colleges;

(C) the State agency having responsibility for higher education institutions or programs;

(D) the State agency responsible for administering public elementary and secondary education;

(E) the State agency responsible for programs of adult basic education;

(F) representatives of all types of institutions in the State which are conducting or which have the capability and desire to conduct programs of postsecondary occupational education;

(G) representatives of private, nonprofit elementary and secondary schools;

(H) the State employment security agency, the State agency responsible for apprenticeship programs, and other agencies within the State having responsibility for administering manpower development and training programs;

(I) the State agency responsible for economic and industrial development;

(J) persons familiar with the occupational education needs of the disadvantaged, of the handicapped, and of minority groups; and

(K) representatives of business, industry, organized labor, agriculture, and the general public.

(c) The Commissioner shall not approve any application for a grant under section 1135b–6 of this title unless he is reasonably satisfied that the planning described in this section (whether or not assisted by a grant under this section) has been carried out. (Pub. L. 89–329, title X, § 1056, as added Pub. L. 92–318, title I, § 186(a)(1), June 23, 1972, 86 Stat. 318.)

EFFECTIVE DATE

Section effective after June 30, 1972, see section 186(b) of Pub. L. 92–318, set out as a note under section 1135 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1135b, 1135b–6, 1135b–7 of this title.

§ 1135b–6. Program grants for State occupational education programs.

(a) From the allotments available to the States under section 1135b–1 of this title (upon application by the State administrative agency designated or established under section 1135b–4 of this title), the Commissioner shall make grants to any State which has satisfied the requirements of section 1135b–7 of this title. Such grants may be used for the following purposes—

(1) assist the State administrative agency designated or established under section 1135b–4 of this title;

(2) the design, establishment, and conduct of programs of postsecondary occupational education (or the expansion and improvement of existing programs) as defined by section 1135b–9 of this title;

(3) the design, establishment, and conduct of programs to carry out the long-range strategy developed pursuant to section 1135b–5(b)(1)(D) of this title for infusing into elementary and secondary education occupational preparation, which shall include methods of involving secondary schools in occupational placement and methods of providing followup services and career counseling and guidance for persons of all ages as a regular function of the educational system;

(4) the design of high-quality instructional programs to meet the needs for postsecondary occupational education and the development of an order of priorities for placing these programs in operation;

(5) special training and preparation of persons to equip them to teach, administer, or otherwise assist in carrying out the program authorized under this part (such as programs to prepare journeymen in the skilled trades or occupations for teaching positions); and

(6) the leasing, renting, or remodeling of facilities required to carry out the program authorized by this part.

(b) Programs authorized by this part may be carried out through contractual arrangements with private organizations and institutions organized for profit where such arrangements can make a contribution to achieving the purposes of this part by providing substantially equivalent education, training, or services more readily or more economically, or by preventing needless duplication of expensive physical plant and equipment, or by providing needed education or training of the types authorized by this part which would not otherwise be available. (Pub. L. 89–329, title X, § 1057, as added Pub. L. 92–318, title I, § 186(a)(1), June 23, 1972, 86 Stat. 319.)

EFFECTIVE DATE

Section effective after June 30, 1972, see section 186(b) of Pub. L. 92–318, set out as a note under section 1135 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1135b, 1135b–5, 1135b–7 of this title.

§ 1135b–7. Assurances; judicial review; reports.

(a) Before making any program grant under this part the Commissioner shall receive from the State Commission an assurance satisfactory to him that the planning requirements of section 1135b–5 of this title have been met and from the State administrative agency assurances satisfactory to him that—

(1) the State Advisory Council on Vocational Education has had a reasonable opportunity to review and make recommendations concerning the design of the programs for which the grant is requested;

(2) Federal funds made available under this part will result in improved occupational education programs, and in no case supplant State, local, or private funds;

(3) adequate provision has been made by such agency for programs described in section 1135b–6(a)(3) of this title;

(4) provision has been made for such fiscal control and fund accounting procedures as may be necessary to assure proper disbursement of, and accounting for, Federal funds paid to the State under this part;

(5) to the extent consistent with the number of students enrolled in nonprofit private schools in the area to be served by an elementary or secondary school program funded under this part, provision has been made for the effective participation of such students; and

(6) reports will be made in such form and containing such information as the Commissioner may reasonably require to carry out his functions under this part.

(b)(1) Whenever the Commissioner, after reasonable notice and opportunity for a hearing to the State administrative agency, finds that any of the assurances required by subsection (a) of this section are unsatisfactory, or that in the administration of the program there is a failure to comply with such assurances or with other requirements of the part, the Commissioner shall notify the administrative agency that no further payments will be made to the State under this part until he is satisfied there has been or will be compliance with the requirements of the part.

(2) A State administrative agency which is dissatisfied with a final action of the Commissioner under this section or under section 1135b–4 of this title (with respect to approval of State administration) may appeal to the United States court of appeals for the circuit in which the State is located, by filing a petition with such court within sixty days after such final action. A copy of the petition shall be forthwith transmitted by the clerk of the court to the Commissioner, or any officer designated by him for that purpose. The Commissioner thereupon shall file in the court the record of the proceedings on which he based his action, as provided in section 2112 of Title 28. Upon the filing of such petition, the court shall have jurisdiction to affirm the action of the Commissioner or to set it aside, in whole or in part, temporarily or permanently but until the filing of the record the Commissioner may modify or set aside his action. The findings of the Commissioner as to the facts, if supported by substantial evidence, shall be conclusive, but the court, for good cause shown, may remand the case to the Commissioner to take further evidence, and the Commissioner may thereupon make new or modified findings of fact and may modify his previous action, and shall file in the court the record of the further proceedings. Such new or modified findings of fact shall likewise be conclusive if supported by substantial evidence. The judgment of the court affirming or setting aside, in whole or in part, any action of the Commissioner shall be final, subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of Title 28. The commencement of proceedings under this subsection shall not, unless so specifically ordered by the court, operate as a stay of the Commissioner's action. (Pub. L. 89–329, title X, § 1058, as added Pub. L. 92–318, title I, § 186(a)(1), June 23, 1972, 86 Stat. 320.)

EFFECTIVE DATE

Section effective after June 30, 1972, see section 186(b) of Pub. L. 92–318, set out as a note under section 1135 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1135b–4, 1135b–6 of this title.

§ 1135b–8. Technical assistance; model programs.

(a) The Commissioner shall make available (to the extent practicable) technical assistance to the States in planning, designing, and carrying out the program authorized by this part upon the request of the appropriate State agency designated or established pursuant to section 1135b–4 or section 1142a

of this title and the Commissioner shall take affirmative steps to acquaint all interested organizations, agencies, and institutions with the provision of this part and to enlist broad public understanding of its purposes.

(b) From the sums reserved to the Commissioner under section 1135b of this title, he shall by grant or contract provide assistance—

(1) for the establishment and conduct of model or demonstration programs which in his judgment will promote the achievement of one or more purposes of this part and which might otherwise not be carried out (or not be carried out soon enough or in such a way as to have the desirable impact upon the purposes of the part);

(2) as an incentive or supplemental grant to any State administrative agency which makes a proposal for advancing the purposes of this part which he feels holds special promise for meeting occupational education needs of particular groups or classes of persons who are disadvantaged or who have special needs, when such proposal could not reasonably be expected to be carried out under the regular State program; and

(3) for particular programs or projects eligible for support under this part which he believes have a special potential for helping to find solutions to problems on a regional or national basis.

(c) In providing support under subsection (b) of this section the Commissioner may as appropriate make grants to or contracts with public or private agencies, organizations, and institutions, but he shall give first preference to applications for projects or programs which are administered by or approved by State administrative agencies, and he shall in no case make a grant or contract within any State without first having afforded the State administrative agency reasonable notice and opportunity for comment and for making recommendations. (Pub. L. 89–329, title X, § 1059, as added Pub. L. 92–318, title I, § 186(a)(1), June 23, 1972, 86 Stat. 321.)

EFFECTIVE DATE

Section effective after June 30, 1972, see section 186(b) of Pub. L. 92–318, set out as a note under section 1135 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1135b of this title.

§ 1135b–9. Definitions.

For the purposes of this part—

(1) The term "State" includes the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Virgin Islands, and (except for the purposes of subsections (a) and (b) of section 1135b–1 of this title) American Samoa and the Trust Territory of the Pacific Islands.

(2) The term "postsecondary occupational education" means education, training, or retraining (and including guidance, counseling, and placement services) for persons sixteen years of age or older who have graduated from or left elementary or secondary school, conducted by an institution legally authorized to provide postsecondary education within a State, which is designed to prepare individuals for gainful employment as semi-skilled or skilled workers or technicians or subprofessionals in recognized occupations (including new and emerging occupations), or to prepare individuals for enrollment in advanced technical education programs, but excluding any program to prepare individuals for employment in occupations which the Commissioner determines, and specifies by regulation, to be generally considered professional or which require a baccalaureate or advanced degree.

(Pub. L. 89–329, title X, § 1060, as added Pub. L. 92–318, title I, § 186(a)(1), June 23, 1972, 86 Stat. 322.)

EFFECTIVE DATE

Section effective after June 30, 1972, see section 186(b) of Pub. L. 92–318, set out as a note under section 1135 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1135b–6 of this title.

PART C—ESTABLISHMENT OF AGENCIES

§ 1135c. Bureau of Occupational and Adult Education; establishment.

(a) There is hereby established in the United States Office of Education a Bureau of Occupational and Adult Education hereinafter referred to as the Bureau, which shall be responsible for the administration of this subchapter, the Vocational Education Act of 1963, including parts C and I thereof, the Adult Education Act, functions of the Office of Education relating to manpower training and development, functions of the Office relating to vocational, technical, and occupational training in community and junior colleges, and any other Act vesting authority in the Commissioner for vocational, occupational, adult and continuing education and for those portions of any legislation for career education which are relevant to the purposes of other Acts administered by the Bureau.

(b)(1) The Bureau shall be headed by a person (appointed or designated by the Commissioner) who is highly qualified in the fields of vocational, technical, and occupational education, who is accorded the rank of Deputy Commissioner, and who shall be compensated at the rate specified for grade 18 of the General Schedule set forth in section 5332 of Title 5.

(2) Additional positions are created for, and shall be assigned to, the Bureau as follows:

(A) Three positions to be placed in grade 17 of such General Schedule, one of which shall be filled by a person with broad experience in the field of junior and community college education,

(B) Seven positions to be placed in grade 16 of such General Schedule, at least two of which shall be filled by persons with broad experience in the field of postsecondary-occupational education in community and junior colleges, at least one of which shall be filled by a person with broad experience in education in private proprietary institutions, and at least one of which shall be filled by a person with professional experience in occupational guidance and counseling, and

(C) Three positions which shall be filled by persons at least one of whom is a skilled worker

in a recognized occupation, another is a subprofessional technician in one of the branches of engineering, and the other is a subprofessional worker in one of the branches of social or medical services, who shall serve as senior advisers in the implementation of this subchapter.

(Pub L. 89-329, title X, § 1071, as added Pub L. 92-318, title I, § 186(a)(1), June 23, 1972, 86 Stat. 322.)

REFERENCES IN TEXT

Vocational Education Act of 1963, referred to in subsec. (a), is classified to chapter 32 of this title.

Parts C and I of the Vocational Education Act of 1963, referred to in subsec. (a), are classified to sections 1281 et seq. and 1391 et seq. of this title, respectively.

Adult Education Act, referred to in subsec. (a), is classified to chapter 30 of this title.

CODIFICATION

A prior section 1135c, Pub. L. 89-329, title X, § 1004, as added Pub. L. 90-575, title II, § 271, Oct. 16, 1968, 82 Stat. 1048, provided for consultations respecting improvement of graduate programs.

EFFECTIVE DATE

Section effective after June 30, 1972, see section 186(b) of Pub. L. 92-318, set out as a note under section 1135 of this title.

OFFICE OF EDUCATION, BUREAU OF OCCUPATIONAL AND ADULT EDUCATION AND COMMUNITY COLLEGE UNIT; ADDITIONAL POSITIONS

Section 186(a)(2) of Pub. L. 92-318, title I, June 23, 1972, 86 Stat. 323, provided that: "The positions created by section 1071 and section 1072 of the Higher Education Act of 1965 [this section and section 1135c-1 of this title] shall be in addition to the number of positions placed in the appropriate grades under section 5108, title 5, United States Code."

§ 1135c-1. Community College Unit; establishment.

(a) There is established, in the Office of Education, a Community College Unit (in this section referred to as the "Unit") which shall have the responsibility for coordinating all programs administered by the Commissioner which affect, or can benefit, community colleges, including such programs assisted under this chapter, and the Vocational Education Act of 1963.

(b) The Unit shall be headed by a Director who shall be placed in grade 17 of the General Schedule under section 5332 of Title 5. (Pub. L. 82-329, title X, § 1072, as added Pub. L. 92-318, title I, § 186(a)(1), June 23, 1972, 86 Stat. 323.)

REFERENCES IN TEXT

Vocational Education Act of 1963, referred to in subsec. (a), is classified to chapter 32 of this title.

EFFECTIVE DATE

Section effective after June 30, 1972, see section 186(b) of Pub. L. 92-318, set out as a note under section 1135 of this title.

SUBCHAPTER XI.—LAW SCHOOL CLINICAL EXPERIENCE PROGRAMS

§ 1136. Program authorization.

(a) Grants or contracts with law schools.

The Commissioner is authorized to enter into grants or contracts with accredited law schools in the States for the purpose of paying not to exceed 90 per centum of the cost of establishing or expanding programs in such schools to provide clinical experience to students in the practice of law, with preference being given to programs providing such experience, to the extent practicable, in the preparation and trial of cases.

(b) Allowable expenditures.

Such costs may include necessary expenditures incurred for—

* * * * *

(5) equipment and library resources; and

* * * * *

(As amended Pub. L. 92-318, title I, § 191 (a), (b), June 23, 1972, 86 Stat. 323.)

AMENDMENTS

1972—Subsec. (a). Pub. L. 92-318, § 191(a), inserted "grants or" preceding "contracts".

Subsec. (b)(5). Pub. L. 92-318, § 191(b), included library resources.

EFFECTIVE DATE OF 1972 AMENDMENT

Section 191(d) of Pub. L. 92-318 provided that: "The amendments made by this section [to this section and sections 1136a and 1136b of this title] shall be effective after June 30, 1971."

§ 1136a. Applications.

(a) A grant or contract authorized by this subchapter may be made by the Commissioner upon application which—

(1) is made at such time or times and contains such information as he may prescribe;

(2) provides for such fiscal control and fund accounting procedures as may be necessary to assure proper disbursement of and accounting for Federal funds paid to the applicant under this subchapter; and

(3) provides for making such reports, in such form and containing such information as the Commissioner may require to carry out his functions under this subchapter, and for keeping such records and for affording such access thereto as the Commissioner may find necessary to assure the correctness and verification of such reports.

(b) The Commissioner shall allocate grants or contracts under this subchapter in such manner as will provide an equitable distribution of such grants or contracts throughout the United States among law schools which show promise of being able to use funds effectively for the purposes of this subchapter. (As amended Pub. L. 92-318, title I, § 191(a), June 23, 1972, 86 Stat. 323.)

AMENDMENTS

1972—Subsec. (a). Pub. L. 92-318 inserted "grant or" preceding "contract".

Subsec. (b). Pub. L. 92-318 inserted "grants or" preceding "contracts" in two instances.

EFFECTIVE DATE OF 1972 AMENDMENT

Amendment by Pub. L. 92-318 effective after June 30, 1971, see section 191(d) of Pub. L. 92-318, set out as a note under section 1136 of this title.

§ 1136b. Authorization of appropriations.

There are authorized to be appropriated $7,500,000 for each of the succeeding fiscal years ending prior to July 1, 1975, to carry out the purposes of this subchapter (and planning and related activities in the initial fiscal year for such purposes). (As amended Pub L. 92-318, title I, § 191(c), June 23, 1972, 86 Stat. 323.)

AMENDMENTS

1972—Pub. L. 92–318 struck out appropriations authorization of $340,000 for fiscal year ending June 30, 1969, and provision making such appropriation available for obligation during that year and the succeeding fiscal year, and made appropriations authorization of $7,500,000 for fiscal years ending June 30, 1970, and 1971, also applicable for fiscal years ending June 30, 1972, 1973, and 1974.

SUBCHAPTER XII.—GENERAL PROVISIONS

§ 1141. Definitions.

As used in this chapter—

* * * * *

(*l*) The term "school or department of divinity" means an institution or a department or a branch of an institution the program of instruction of which is designed for the education of students (A) to prepare them to become ministers of religion or to enter upon some other religious vocation (or to provide continuing training for any such vocation), or (B) to prepare them to teach theological subjects. (As amended Pub. L. 92–318, title I, § 131(d)(1), June 23, 1972, 86 Stat. 260.)

AMENDMENTS

1972—Subsec. (*l*). Pub. L. 92–318 added subsec. (*l*).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1088, 2002 of this title; title 33 section 1262; title 42 sections 3033, 3781.

SECTION REFERRED TO IN D.C. CODE

This section is referred to in section 29–421 of the District of Columbia Code.

§ 1142a. State postsecondary education commissions.

(a) Representation of interest groups.

Any State which desires to receive assistance under section 1142b of this title or subchapter X of this chapter shall establish a State Commission or designate an existing State agency or State Commission (to be known as the State Commission) which is broadly and equitably representative of the general public and public and private nonprofit and proprietary institutions of postsecondary education in the State including community colleges (as defined in subchapter X of this chapter), junior colleges, postsecondary vocational schools, area vocational schools, technical institutes, four-year institutions of higher education and branches thereof.

(b) Committees or task forces of State Commissions; utilization of agencies for studies, surveys, recommendations, and expertise.

Such State Commission may establish committees or task forces, not necessarily consisting of Commission members, and utilize existing agencies or organizations, to make studies, conduct surveys, submit recommendations, or otherwise contribute the best of available expertise from the institutions, interest groups, and segments of the society most concerned with a particular aspect of the Commission's work.

(c) State Commissions for administration of subchapter I, VI, and VII State plans.

(1) At any time after July 1, 1973, a State may designate the State Commission established under subsection (a) of this section as the State agency or institution required under section 1005, 1123, or 1132a–3 of this title. In such case, the State Commission established under this section shall be deemed to meet the requirements of such sections for State agencies or institutions.

(2) If a State makes a designation referred to in paragraph (1)—

(A) the Commissioner shall pay the State Commission the amount necessary for the proper and efficient administration of the Commission of the functions transferred to it by reason of the designation; and

(B) the State Commission shall be considered the successor agency to the State agency or institution with respect to which the designation is made, and action theretofore taken by the State agency or institution shall continue to be effective until changed by the State Commission.

(d) Other State Commissions for administration of subchapter VI and VII State plans.

Any State which desires to receive assistance under subchapter VI or under subchapter VII of this chapter but which does not desire, after June 30, 1973, to place the functions of State Commissions under such subchapters under the authority of the State Commission established pursuant to subsection (a) of this section shall establish for the purposes of such subchapters a State Commission which is broadly representative of the public and of institutions of higher education (including junior colleges and technical institutes) in the State. Such State Commissions shall have the sole responsibility for the administration of State plans under such subchapters VI and VII within such State. (Pub. L. 89–329, title XII, § 1202, as added Pub. L. 92–318, title I, § 196, June 23, 1972, 86 Stat. 324.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1132a–1, 1135, 1135b–5, 1135b–8, 1142b, 1221d of this title.

§ 1142b. Comprehensive statewide planning.

(a) Grants for studies and planning for postsecondary educational opportunities.

The Commissioner is authorized to make grants to any State Commission established pursuant to section 1142a(a) of this title to enable it to expand the scope of the studies and planning required in subchapter X of this chapter through comprehensive inventories of, and studies with respect to, all public and private postsecondary educational resources in the State, including planning necessary for such resources to be better coordinated, improved, expanded, or altered so that all persons within the State who desire, and who can benefit from, postsecondary education may have an opportunity to do so.

(b) Technical assistance.

The Commissioner shall make technical assistance available to State Commissions, if so requested, to assist them in achieving the purposes of this section.

(c) Authorization of appropriations.

There are authorized to be appropriated such sums as may be necessary to carry out this section. (Pub. L. 89–329, title XII, § 1203, as added Pub. L. 92–318, title I, § 196, June 23, 1972, 86 Stat. 325.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1142a, 1221d of this title.

§ 1144a. Policy statement concerning students on boards of trustees.

It is the sense of the Congress that the governing boards of institutions of higher education should give consideration to student participation on such boards. (Pub. L. 92–318, title V, § 510, June 23, 1972, 86 Stat. 353.)

CODIFICATION

Section was enacted as a part of the Education Amendments of 1972, and not as a part of the Higher Education Act of 1965, which is classified to this chapter.

§ 1145. Advisory Council on Graduate Education.

TERMINATION OF ADVISORY COUNCILS

Advisory Councils in existence on January 5, 1973, to terminate not later than the expiration of the two-year period following January 5, 1973, unless, in the case of a Council established by the President or an officer of the Federal Government, such Council is renewed by appropriate action prior to the expiration of such two-year period, or in the case of a Council established by the Congress, its duration is otherwise provided by law, see sections 3(2) and 14 of Pub. L. 92–463, Oct. 6, 1972, 86 Stat. 770, 776, set out in the Appendix to Title 5, Government Organization and Employees.

§ 1145a. Cost of education data.

The Commissioner may require as a condition of eligibility of any institution of higher education—

(1) for institutional aid, at the earliest practical date, or

(2) for student aid, after June 30, 1973,

that such institution supply such cost-of-education data as may be in the possession of such institution. (Pub. L. 89–329, title XII, § 1206, as added Pub. L. 92–318, title I, § 197, June 23, 1972, 86 Stat. 325.)

Chapter 29.—INTERNATIONAL STUDIES AND RESEARCH

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in section 1232a of this title.

§ 1176. Appropriations and reports.

(a) Authorization of appropriations.

There is authorized to be appropriated $1,000,000 for the fiscal year ending June 30, 1967, which shall be available only for the purpose of preparing the report provided for in subsection (b) of this section. There are authorized to be appropriated $40,000,000 for the fiscal year ending June 30, 1968, and $90,000,000 for each of the succeeding fiscal years ending prior to July 1, 1971, for the purpose of carrying out the provisions of sections 1172 to 1177 of this title. There are authorized to be appropriated $20,000,000 for the fiscal year ending June 30, 1973, $30,000,000 for the fiscal year ending June 30, 1974, and $40,000,000 for the fiscal year ending June 30, 1975, for the purpose of carrying out the provisions of sections 1172 to 1177 of this title. For the fiscal years thereafter there shall be appropriated for the purpose of carrying out the provisions of sections 1172 to 1177 of this title only such amounts as the Congress may hereafter authorize by law.

* * * * *

(As amended Pub. L. 92–318, title I, § 183, June 23, 1972, 86 Stat. 312.)

AMENDMENTS

1972—Subsec. (a). Pub. L. 92–318 authorized appropriations of $20,000,000; $30,000,000; and $40,000,000 for fiscal years ending June 30, 1973, 1974, and 1975, respectively.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1174, 1177 of this title.

§ 1177. National Advisory Committee on International Studies.

TERMINATION OF ADVISORY COMMITTEES

Advisory Committees in existence on January 5, 1973, to terminate not later than the expiration of the two-year period following January 5, 1973, unless, in the case of a committee established by the President or an officer of the Federal Government, such committee is renewed by appropriate action prior to the expiration of such two-year period, or in the case of a committee established by the Congress, its duration is otherwise provided by law, see section 14 of Pub. L. 92-463, Oct. 6, 1972, 86 Stat. 776, set out in the Appendix to Title 5, Government Organization and Employees.

Chapter 30.—BASIC EDUCATION FOR ADULTS

Sec.

1208–1. Clearinghouse on adult education [New].
1208a. Special projects for the elderly [New].
(a) Grants to public educational and public or private nonprofit agencies.
(b) Authorization of appropriations.
(c) Administrative coordination with programs for older Americans.
1208b. State advisory councils [New].
(a) Appointment or election.
(b) Membership; functions.
(c) Certification by Commissioner after notice of establishment and membership.
(d) Meetings; public meeting; chairman.
(e) Personnel.
1211a. Grants for improvement of educational opportunities for adult Indians [New].
(a) Planning, pilot, and demonstration projects.
(b) Dissemination of information; evaluation of federally assisted programs.
(c) Applications for grants; submission; manner; contents; tribal participation; Indians, priority.
(d) Authorization of appropriations.

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in sections 880b–7, 1135c of this title.

§ 1202. Definitions.

As used in this chapter—

* * * * *

(e) The term "community school program" is a program in which a public building, including but not limited to a public elementary or secondary school or a community or junior college, is used as a community center operated in conjunction with other groups in the community, community organizations, and local governmental agencies, to provide educational, recreational, cultural, and other related community services for the community that center serves in accordance with the needs, interests, and concerns of that community.

(f) The term "local educational agency" means a public board of education or other public authority legally constituted within a State for either administrative control or direction of public elementary or secondary schools in a city, county, township, school district, or other political subdivision of a State, or such combination of school districts or counties as are recognized in a State as an administrative agency for its public elementary or secondary schools, except that if there is a separate board or other legally constituted local authority having administrative

control and direction of adult education in public schools therein, such term means such other board or authority.

(g) The term "State" includes the District of Columbia, the Commonwealth of Puerto Rico, and (except for the purposes of section 1204(a) of this title) Guam, American Samoa, the Trust Territory of the Pacific Islands, and the Virgin Islands.

(h) The term "State educational agency" means the State board of education or other agency or officer primarily responsible for the State supervision of public elementary and secondary schools, or if there is a separate State agency or officer primarily responsible for supervision of adult education in public schools then such agency or officer may be designated for the purpose of this chapter by the Governor or by State law. If no agency or officer qualifies under the preceding sentence, such term shall mean an appropriate agency or officer designated for the purposes of this chapter by the Governor.

(i) The term "academic education" means the theoretical, the liberal, the speculative, and classical subject matter found to compose the curriculum of the public secondary school.

(j) The term "institution of higher education" means any such institution as defined by section 881(e) of this title. (As amended Pub. L. 93–380, title VI, § 601, title VIII, § 843(c)(1), Aug. 21, 1974, 88 Stat. 576, 611.)

AMENDMENTS

1974—Subsec. (e), Pub. L. 93–380, § 601(2), added subsec. (e). Former subsec. (e) redesignated (f).

Subsec. (f). Pub. L. 93–380, § 601(1), redesignated former subsec. (e) as (f). Former subsec. (f) redesignated (g).

Subsec. (g). Pub. L. 93–380, §§ 601(1), 843(c)(1), redesignated former subsec. (f) as (g), inserted "the Commonwealth of Puerto Rico," after "the District of Columbia,", and deleted "the Commonwealth of Puerto Rico," preceding "Guam".

Subsecs. (h)–(j). Pub. L. 93–380, § 601(1), redesignated former subsecs. (g)–(i) as (h)–(j), respectively.

EFFECTIVE DATE OF 1974 AMENDMENT

Section 609 of Pub. L. 93–380 provided that:

"(a) The amendments made by this part [enacting sections 1208–1 and 1208b and amending sections 1202, 1203, and 1208 of this title] shall be effective [Aug. 21, 1974], except that—

"(1) the amendments made by section 608 [to sections 1211(a) and 1211a(d) of this title] shall be effective on and after July 1, 1973; and

"(2) the amendments made by sections 603 [amending subsec. (a)(1), adding subsec. (a)(6), (7), and redesignating former subsec. (a)(6)–(9) as subsec. (a)(8)–(11) of section 1205 of this title] and 607 [adding subsec. (a)(11) and redesignating former subsec. (a)(11) as subsec. (a)(12) of section 1205 and amending sections 1208(b)(1), (2) and 1209(b) of this title] shall be effective on, and with respect to appropriations for fiscal years beginning after June 30, 1973.

"(b) The amendments made by sections 603 [amending subsec. (a)(1), adding subsec. (a)(6), (7), and redesignating former subsec. (a)(6)–(9) as subsec. (a)(8)–(11) of section 1205 of this title] and 604 [to section 1208 of this title] shall not take effect with respect to any multi-year program or project approved prior to the date of enactment of this Act [Aug. 21, 1974].

Amendment of subsec. (g) by section 843(c)(1) of Pub. L. 93–380 effective on and after July 1, 1974, see section 843(e) of Pub. L. 93–380, set out as a note under section 241g of this title.

§ 1203. Grants to States.

The Commissioner is authorized to make grants to States, which have State plans approved by him under section 1205 of this title for the purposes of this section, to pay the Federal share of the cost of (1) the establishment or expansion of adult basic education programs to be carried out by local educational agencies and private nonprofit agencies, and (2) the establishment or expansion of adult education programs to be carried out by local educational agencies and private nonprofit agencies. (As amended Pub. L. 93–380, title VI, § 602, Aug. 21, 1974, 88 Stat. 576.)

AMENDMENTS

1974—Pub. L. 93–380 deleted subsec. (a) which reserved not less than 10 per centum nor more than 20 per centum from the sums appropriated pursuant to section 1211 of this title for purposes of section 1208 of this title and subsec. (b) designation, including initial text "From the remainder of such sums,", capitalizing "The" preceding "Commissioner".

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment by Pub. L. 93–380 effective Aug. 21, 1974, see section 609 of Pub. L. 93–380, set out as a note under section 1202 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1204, 1205 of this title.

§ 1204. Allotment and reallotment of grant funds.

(a) From the sums available for purposes of section 1203 of this title for the fiscal year ending June 30, 1972, and for any succeeding fiscal year, the Commissioner shall allot (1) not more than 1 per centum thereof among Guam, American Samoa, the Trust Territory of the Pacific Islands, and the Virgin Islands according to their respective needs for assistance under such section, and (2) $150,000 to each State. From the remainder of such sums he shall allot to each State an amount which bears the same ratio to such remainder as the number of adults who do not have a certificate of graduation from a school providing secondary education (or its equivalent) and who are not currently required to be enrolled in schools in such State bears to the number of such adults in all States. From the sums available for purposes of section 1203 of this title for the fiscal year ending June 30, 1970, and the succeeding fiscal year, the Commissioner shall make allotments in accordance with this subsection as in effect on June 30, 1969.

* * * * *

(As amended Pub. L. 93–380, title VIII, § 843(c)(2), (3), Aug. 21, 1974, 88 Stat. 611.)

CODIFICATION

Reference to section 1203 was substituted for reference to section 1203(b) of this title to conform to amendment of section 1203 of this title by Pub. L. 93–380, which struck out subsec. (a) and designated subsec. (b) of such section as the entire section.

AMENDMENTS

1974—Subsec. (a). Pub. L. 93–380 struck out reference to "Puerto Rico," preceding "Guam" and reduced the rate from "2" to "1" per centum.

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment by Pub. L. 93–380 effective on and after July 1, 1974, see section 843(e) of Pub. L. 93–380, set out as a note under section 241g of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1202, 1208, 1211 of this title.

§ 1205. State plans; submission to Commissioner; required provisions; hearing.

(a) Any State desiring to receive its allotment of Federal funds for any grant under this chapter shall submit through its State educational agency a State plan. Such State plan shall be in such detail as the Commissioner deems necessary, and shall—

(1) set forth a program for the use of grants, in accordance with section 1203 of this title, which affords assurance of substantial progress, with respect to all segments of the adult population, including institutionalized persons, and all areas of the State, toward carrying out the purposes of such section, that not to exceed 20 per centum of the funds used to carry out this chapter for any fiscal year may be used for the education of institutionalized persons;

* * * * *

(6) provide for cooperation with manpower development and training programs and occupational education programs, and for coordination of programs carried on under this chapter with other programs, including reading improvement programs, designed to provide reading instruction for adults carried on by State and local agencies;

(7) provide that such agency will make available not to exceed 20 per centum of the State's allotment for programs of equivalency for a certificate of graduation from a secondary school;

(8) provide that such agency will make such reports to the Commissioner, in such form and containing such information, as may reasonably be necessary to enable the Commissioner to perform his duties under this chapter and will keep such records and afford such access thereto as the Commissioner finds necessary to assure the correctness and verification of such reports;

(9) provide such fiscal control and fund accounting procedures as may be necessary to assure proper disbursement of and accounting for Federal funds paid the State under this chapter (including such funds paid by the State to local educational agencies and private nonprofit agencies);

(10) provide that special emphasis be given to adult basic education programs except where such needs can be shown to have been met in the State;

(11) provide that special assistance be given to the needs of persons of limited English-speaking ability (as defined in section 880b–1(a) of this title), by providing bilingual adult education programs in which instruction is given in English and, to the extent necessary to allow such persons to progress effectively through the adult education program, in the native language of such persons, carried out in coordination with programs of bilingual education assisted under title VII of the Elementary and Secondary Education Act of 1965 and bilingual vocational education programs under the Vocational Education Act of 1963; and

(12) provide such further information and assurances as the Commissioner may by regulation require.

* * * * * *

(As amended Pub. L. 93–380, title VI, §§ 603, 607(a), Aug. 21, 1974, 88 Stat. 576, 578.)

CODIFICATION

Reference to section 1203 was substituted for reference to section 1203(b) of this title to conform to amendment of section 1203 of this title by Pub. L. 93–380, which struck out subsec. (a) and designated subsec. (b) of such section as the entire section.

REFERENCES IN TEXT

Title VII of the Elementary and Secondary Education Act of 1965, referred to in subsec. (a)(11), is classified to section 880b et seq. of this title.

The Vocational Education Act of 1963, referred to in subsec. (a)(11), is classified to chapter 32 (section 1241 et seq.) of this title.

AMENDMENTS

1974—Subsec. (a)(1). Pub. L. 93–380, § 603(b), required that the State plan provide for institutionalized persons and authorized use of up to 20 per centum of available funds for education of such persons.

Subsec. (a) (6), (7). Pub. L. 93–380, § 603(a), added pars. (6) and (7). Former pars. (6) and (7) redesignated (8) and (9), respectively.

Subsec. (a) (8)–(10). Pub. L. 93–380, § 603(a), redesignated former pars. (6)–(8) as (8)–(10), respectively.

Subsec. (a)(11). Pub. L. 93–380, § 607(a), added par. (11). Former par. (11), previously designated (9), renumbered (11) by Pub. L. 93–380, § 603(a), redesignated (12).

Subsec. (a)(12). Pub. L. 93–380, §§ 603(a), 607(a), redesignated former par. (9) as par. (11), and such par. (11) as par. (12), respectively.

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment of subsec. (a)(1), enactment of subsec. (a) (6), (7), and redesignation of former subsec. (a) (6)–(9) as subsec. (a) (8)–(11) effective on, and with respect to appropriations for fiscal years beginning after June 30, 1973, and not effective with respect to any multi-year program or project prior to Aug. 21, 1974, see section 609 of Pub. L. 93–380, set out as a note under section 1202 of this title.

Enactment of subsec. (a)(11) and redesignation of former subsec. (a)(11), previously designated (a)(9), as subsec. (a)(12), by Pub. L. 93–380 effective on, and with respect to appropriations for fiscal years beginning after June 30, 1973, see section 609 of Pub. L. 93–380, set out as a note under section 1202 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 880b–1, 1203, 1207, 1208b, 1209, 1262 of this title.

§ 1208. Use of funds for special experimental demonstration projects and teacher training.

Of the funds allotted to a State under section 1204 of this title for a fiscal year, not less than 15 per centum shall be used for—

(1) special projects which will be carried out in furtherance of the purposes of this chapter, and which—

(A) involve the use of innovative methods, systems, materials, or programs which may have national significance or be of special value in promoting effective programs under this chapter, or

(B) involve programs of adult education which are part of community school programs, carried out in cooperation with other Federal, federally assisted, State, or local programs which have unusual promise in promoting a compre-

hensive or coordinated approach to the problems of persons with educational deficiences; and

(2) training persons engaged, or preparing to engage, as personnel in programs designed to carry out the purposes of this chapter.

(As amended Pub. L. 93–380, title VI, §§ 604, 607(b)(1), (2), Aug. 21, 1974, 88 Stat. 577–579.)

AMENDMENTS

1974—Pub. L. 93–380, § 604, in revising existing subsec. (a)–(c) provisions, effective Aug. 21, 1974, but not effective with respect to any multi-year program or project approved prior to Aug. 21, 1974, incorporated existing subsec. (a) provision for use of funds for special experimental demonstration projects and teacher training, prescribing use of not less than 15 per centum of State allotment (former provision requiring use of 10 to 20 per centum of appropriated funds); required the adult education programs to be a part of community school programs; and deleted former subsec. (b)(1) provision for use of methods for educating persons of limited English-speaking ability, former subsec. (b)(2) requirement for inclusion of adult education for persons of limited English-speaking ability, former subsec. (b) provision for 10 per centum non-Federal contribution, and former subsec. (c) provisions for payment of stipends and allowances to teacher trainees and their dependents and making the training available directly, by contract, or by grant to appropriate public or private agencies.

Subsec. (b)(1). Pub. L. 93–380, § 607(b)(1), required the special projects to use methods for educating persons of limited English-speaking ability, effective on, and with respect to appropriations for fiscal years beginning after June 30, 1973.

Subsec. (b)(2). Pub. L. 93–380, § 607(b)(2), required the special projects to include programs of adult education for persons of limited English-speaking ability, effective on, and with respect to appropriations for fiscal years beginning after June 30, 1973.

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment by section 604 of Pub. L. 93–380 effective Aug. 21, 1974, and not effective with respect to any multi-year program or project approved prior to Aug. 21, 1974, see section 609 of Pub. L. 93–380, set out as a note under section 1202 of this title.

Amendment by section 607(b)(1), (2) of Pub. L. 93–380 effective on, and with respect to appropriations for fiscal years beginning after June 30, 1973, see section 609(a)(2) of Pub. L. 93–380, set out as a note under section 1202 of this title.

§ 1208–1. Clearinghouse on adult education.

The Commissioner shall establish and operate a clearinghouse on adult education, which shall collect and disseminate to the public information pertaining to the education of adults and adult education programs, together with ways of coordinating adult education programs with manpower and other education programs. The Commissioner is authorized to enter into contracts with public agencies or private organizations to operate the clearinghouse established or designated under this section. (Pub. L. 89–750, title III, § 309A, as added Pub. L. 93–380, title VI, § 605, Aug. 21, 1974, 88 Stat. 577.)

EFFECTIVE DATE

Section effective Aug. 21, 1974, see section 609 of Pub. L. 93–380, set out as a note under section 1202 of this title.

§ 1208a. Special projects for the elderly.

(a) Grants to public educational and public or private nonprofit agencies.

The Commissioner is authorized to make grants to State and local educational agencies or other public or private non-profit agencies for programs to further the purpose of this chapter by providing educational programs for elderly persons whose ability to speak and read the English language is limited and who live in an area with a culture different than their own. Such programs shall be designed to equip such elderly persons to deal successfully with the practical problems in their everyday life, including the making of purchases, meeting their transportation and housing needs, and complying with governmental requirements such as those for obtaining citizenship, public assistance and social security benefits, and housing.

(b) Authorization of appropriations.

For the purpose of making grants under this section there are authorized to be appropriated such sums as may be necessary for the fiscal year ending June 30, 1973, for each succeeding fiscal year ending prior to October 1, 1978, and for the period beginning July 1, 1976, and ending September 30, 1976.

(c) Administrative coordination with programs for older Americans.

In carrying out the program authorized by this section, the Commissioner shall consult with the Commissioner of the Administration on Aging for the purpose of coordinating, where practicable, the programs assisted under this section with the programs assisted under the Older Americans Act of 1965. (Pub. L. 89–750, title III, § 310, as added Pub. L. 93–29, title VIII, § 804(a), May 3, 1973, 87 Stat. 60, and amended Pub. L. 94–135, title II, § 202, Nov. 28, 1975, 89 Stat. 726.)

REFERENCES IN TEXT

Older Americans Act of 1965, referred to in subsec. (c), is classified to chapter 35 (section 3001 et seq.) of Title 42, The Public Health and Welfare.

AMENDMENTS

1975—Subsec. (b). Pub. L. 94–135 substituted "for each succeeding fiscal year ending prior to October 1, 1978, and for the period beginning July 1, 1976, and ending September 30, 1976" for "and each succeeding fiscal year ending prior to July 1, 1975".

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1208b, 1211 of this title.

§ 1208b. State advisory councils.

(a) Appointment or election.

Any State which receives assistance under this chapter may establish and maintain a State advisory council, or may designate and maintain an existing State advisory council, which shall be, or has been, appointed by the Governor, or in the case of a State in which members of the State board which governs the State education agency are elected (including election by the State legislature), by such board.

(b) Membership; functions.

(1) Such a State advisory council shall include as members persons who, by reason of experience or training, are knowledgeable in the field of adult education or who are officials of the State educational agency or of local educational agencies of that State, persons who are or have received adult educational services, and persons who are representative of the general public.

(2) Such a State advisory council, in accordance with regulations prescribed by the Commissioner, shall—

(A) advise the State educational agency on the development of, and policy matters arising in, the administration of the State plan approval pursuant to section 1205 of this title;

(B) advise with respect to long-range planning and studies to evaluate adult education programs, services, and activities assisted under this chapter; and

(C) prepare and submit to the State educational agency, and to the National Advisory Council for Adult Education established pursuant to section 1208a of this title, an annual report of its recommendations, accompanied by such additional comments of the State educational agency as that agency deems appropriate.

(c) Certification by Commissioner after notice of establishment and membership.

Upon the appointment of any such advisory council, the appointing authority under subsection (a) of this section shall inform the Commissioner of the establishment of, and membership of, its State advisory council. The Commissioner shall upon receiving such information, certify that each such council is in compliance with the membership requirements set forth in subsection (b) (1) of this section.

(d) Meetings; public meeting; chairman.

Each such State advisory council shall meet within thirty days after certification has been accepted by the Commissioner under subsection (c) of this section and select from among its membership a chairman. The time, place, and manner of subsequent meetings shall be provided by the rules of the State advisory council, except that such rules shall provide that each such council meet at least four times each year, including at least one public meeting at which the public is given the opportunity to express views concerning adult education.

(e) Personnel.

Each such State advisory council is authorized to obtain the services of such professional, technical, and clerical personnel as may be necessary to enable them to carry out their functions under this section. (Pub. L. 89–750, title III, § 310A, as added Pub. L. 93–380, title VI, § 606, Aug. 21, 1974, 88 Stat. 577.)

EFFECTIVE DATE

Section effective Aug. 21, 1974, see section 609 of Pub. L. 93–380, set out as a note under section 1202 of this title.

§ 1209. National Advisory Council on Adult Education.

* * * * *

(b) Membership; meetings; termination.

The Council shall consist of fifteen members who shall, to the extent possible, include persons knowledgeable in the field of adult education, including education for persons of limited English-speaking ability in which instruction is given in English and, to the extent necessary to allow such persons to progress effectively through the adult education program, in the native language of such persons, State and local public school officials, and other persons having special knowledge and experience, or qualifications with respect to adult education, including education for persons of limited English-speaking ability in which instruction is given in English and, to the extent necessary to allow such persons to progress effectively through the adult education program, in the native language of such persons, and persons representative of the general public. The Council shall meet initially at the call of the Commissioner and elect from its number a chairman. The Council will thereafter meet at the call of the chairman, but not less often than twice a year. Subject to section 1233g(b) of this title, the Council shall continue to exist until July 1, 1978.

* * * * * *

(Pub. L. 89–750, title III, § 311, formerly 310, Nov. 3, 1966, 80 Stat. 1220, amended Pub. L. 91–230, title III, § 301, Apr. 13, 1970, 84 Stat. 163, and renumbered Pub. L. 93–29, title VIII, § 804(a), May 3, 1973, 87 Stat. 59, and amended Pub. L. 93–380, title VI, § 607 (b) (3), title VIII, § 845(f), Aug. 21, 1974, 88 Stat. 579, 612.)

AMENDMENTS

1974—Subsec. (b). Pub. L. 93–380 inserted after "adult education" the words ", including education for persons of limited English-speaking ability in which instruction is given in English and, to the extent necessary to allow such persons to progress effectively through the adult education program, in the native language of such persons" and continued existence of National Council until July 1, 1978.

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment by section 607(b)(3) of Pub. L. 93–380 effective on, and with respect to appropriations for fiscal years beginning after June 30, 1973, see section 609 of Pub. L. 93–380, set out as a note under section 1202 of this title.

Amendment by section 845(f) of Pub. L. 93–380 effective on and after sixtieth day after Aug. 21, 1974, see section 2(c) of Pub. L. 93–380, set out as a note under section 241b of this title.

§ 1210. Grants for sectarian instruction, religious worship, or school or department of divinity prohibited.

Pub. L. 93–29, title VIII, § 804(a), May 3, 1973, 87 Stat. 59, redesignated section 311 of title III of Pub. L. 89–750, as section 312.

§ 1211. Authorization of appropriations.

(a) There are authorized to be appropriated $160,000,000 for the fiscal year ending June 30, 1970, $200,000,000 for the fiscal year ending June 30, 1971, $225,000,000 for each of the fiscal years ending June 30, 1972, and June 30, 1973, $150,000,000 for each of the fiscal years ending June 30, 1974, and June 30, 1975, $175,000,000 for the fiscal year ending June 30, 1976, and $200,000,000 for each of the fiscal years ending June 30, 1977, and June 30, 1978: *Provided,* That, effective with respect to fiscal years after June 30, 1974, grants to each State under section 1204 of this title shall not be less than 90 per centum of the grants made to such State agencies in fiscal year 1973 for the purposes of this chapter (other than sections 1208a and 1211a of this title).

* * * * * *

(Pub. L. 89–750, title III, § 313, formerly § 314, Nov. 3, 1966, 80 Stat. 1222, amended Pub. L. 90–247, title V, § 504, Jan. 2, 1968, 81 Stat. 815; renumbered § 312 and amended Pub. L. 91–230, title III, § 301, Apr. 13, 1970, 84 Stat. 164; Pub. L. 91–600, § 3(b), Dec. 30, 1970, 84 Stat. 1669; renumbered § 313 and amended

Pub. L. 93–29, title VIII, § 804, May 3, 1973, 87 Stat. 59, 60; Pub. L. 93–380, title VI, § 608(a), Aug. 21, 1974, 88 Stat. 579.)

AMENDMENTS

1974—Subsec. (a). Pub. L. 93–380 inserted reference to section 1211a of this title and authorized appropriations of $150,000,000 for fiscal years ending June 30, 1974, and 1975, $175,000,000 for fiscal year ending June 30, 1976, and $200,000,000 for fiscal years ending June 30, 1977, and 1978, provided, that, effective with respect to fiscal years after June 30, 1974, grants to each State under section 1204 of this title shall not be less than 90 per centum of the grants made to such State agencies in fiscal year 1973.

1973—Subsec. (a). Pub. L. 93–29, § 804(b), prohibited use of authorized appropriations for purposes of section 1208a of this title.

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment by Pub. L. 93–380 effective on and after July 1, 1973, see section 609(a)(1) of Pub. L. 93–380, set out as a note under section 1202 of this title.

§ 1211a. Grants for improvement of educational opportunities for adult Indians.

(a) Planning, pilot, and demonstration projects.

The Commissioner shall carry out a program of making grants to State and local educational agencies, and to Indian tribes, institutions, and organizations, to support planning, pilot, and demonstration projects which are designed to plan for, and test and demonstrate the effectiveness of, programs for providing adult education for Indians—

(1) to support planning, pilot, and demonstration projects which are designed to test and demonstrate the effectiveness of programs for improving employment and educational opportunities for adult Indians;

(2) to assist in the establishment and operation of programs which are designed to stimulate (A) the provision of basic literacy opportunities to all nonliterate Indian adults, and (B) the provision of opportunities to all Indian adults to qualify for a high school equivalency certificate in the shortest period of time feasible;

(3) to support a major research and development program to develop more innovative and effective techniques for achieving the literacy and high school equivalency goals;

(4) to provide for basic surveys and evaluations thereof to define accurately the extent of the problems of illiteracy and lack of high school completion on Indian reservations;

(5) to encourage the dissemination of information and materials relating to, and the evaluation of the effectiveness of, education programs which may offer educational opportunities to Indian adults.

(b) Dissemination of information; evaluation of federally assisted programs.

The Commissioner is also authorized to make grants to, and contracts with, public agencies, and institutions, and Indian tribes, institutions, and organizations for—

(1) the dissemination of information concerning educational programs, services, and resources available to Indian adults, including evaluations thereof; and

(2) the evaluation of the effectiveness of federally assisted programs in which Indian adults may participate in achieving the purposes of such programs with respect to such adults.

(c) Applications for grants; submission; manner; contents; tribal participation; Indians, priority.

Applications for a grant under this section shall be submitted at such time, in such manner, and contain such information, and shall be consistent with such criteria, as may be established as requirements in regulations promulgated by the Commissioner. Such applications shall—

(1) set forth a statement describing the activities for which assistance is sought;

(2) provide for an evaluation of the effectiveness of the project in achieving its purposes and those of this section.

The Commissioner shall not approve an application for a grant under subsection (a) of this section unless he is satisfied that such application, and any documents submitted with respect thereto, indicate that there has been adequate participation by the individuals to be served and tribal communities in the planning and development of the project, and that there will be such a participation in the operation and evaluation of the project. In approving applications under subsection (a) of this section, the Commissioner shall give priority to applications from Indian educational agencies, organizations, and institutions.

(d) Authorization of appropriations.

For the purpose of making grants under this section there are hereby authorized to be appropriated $5,000,000 for the fiscal year ending June 30, 1973, and $8,000,000 for each of the succeeding fiscal years ending prior to July 1, 1978. (Pub. L. 89–750, title III, § 314, as added Pub. L. 92–318, title IV, § 431, June 23, 1972, 86 Stat. 342, and amended Pub. L. 93–380, title VI, § 608(b), Aug. 21, 1974, 88 Stat. 579.)

AMENDMENTS

1974—Subsec. (d). Pub. L. 93–380 substituted "for each of the succeeding fiscal years ending prior to July 1, 1978" for "for each of the two succeeding fiscal years".

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment by Pub. L. 93–380 effective on and after July 1, 1973, see section 609 of Pub. L. 93–380, set out as a note under section 1202 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1211, 1221f, 1221g of this title.

Chapter 31.—GENERAL PROVISIONS CONCERNING EDUCATION

Sec.
1221–1. National policy with respect to equal educational opportunity [New].
1221–2. National policy with respect to museums as educational institutions [New].

SUBCHAPTER I.—EDUCATION DIVISION OF DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE [NEW]

1221a. Education Division.
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(b) Office of Education and National Institute of Education; Office of Assistant Secretary: National Center for Education Statistics.
1221b. Assistant Secretary for Education.
(a) Appointment; compensation.
(b) Principal officer of Education Division.

Sec.
1221c. Office of Education.
(a) Administration of financial assistance programs; authorities and responsibilities.
(b) Commissioner of Education; appointment, direction, and supervision.
(c) Bureaus and divisions; regional offices: location, functions, information centers, technical assistance, delegation of functions; reports to congressional committees.
1221d. Grants and contracts for improvement of postsecondary education.
(a) Scope of projects or programs.
(b) State Postsecondary Education Commission recommendations respecting postsecondary education projects or programs.
(c) Authority of Commissioner applicable to Secretary.
(d) Technical personnel; appointment; terms; number; functions; compensation.
(e) Authorization of appropriations.
1221e. National Institution of Education.
(a) Congressional statement of policy.
(b) Establishment; composition: National Council on Educational Research and Director of the Institute; functions of Institute.
(c) Council; members; appointment; Director; ex officio members; quorum; Chairman; voting; term of office; functions; information and assistance.
(d) Director: appointment, compensation duties, powers and authorities, accountability, delegation of functions; Deputy Director: appointment and removal, compensation, acting Director, additional position.
(e) Research; definition of "educational research; amount of funds; technical or professional personnel of Institute: appointment and compensation, term.
(f) Repealed.
(g) Administration of funds from several sources for single project.
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1221e–1. National Center for Education Statistics.
(a) Establishment; Administrator of Center, appointment.
(b) Purpose and functions.
(c) Advisory Council on Education Statistics; establishment; membership; appointees: political party affiliation, terms; ex officio members; presiding officer; meetings; quorum; section 1233g(b) provisions inapplicable; functions.
(d) Report to Congress; data publication standards.
(e) Grants and contracts for carrying out subsection (b) purposes; eligible persons.
(f)(1) Tables and other statistical records respecting education and special statistical compilations and surveys; compilations and surveys for congressional committees; payment of cost; joint statistical projects, equitable sharing of cost; separate account for funds, uses.
(2) Educational data consortium with other Federal agencies; access to data by interested parties.
(3) Cooperation with Center; records and data available to Center.
(g) Limitation of funds for salaries and expenses, and grants and contracts; separate line item appropriations.
1221e–2. Education officers of United States.
(a) Definition.
(b) Service.
(c) Conflict of interest.
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1221e–3. General authority of administrative heads of education agencies.
(a) Rules and regulations for agency operation; personnel; gifts; transactions; construction of facilities; acquisition and disposal of property; reimbursement of Federal agencies for use of services.
(b) Delegation of functions.
(c) "Administrative head of an education agency" defined.
1221f. Office of Indian Education.
(a) Establishment; functions of bureau; Deputy Commissioner of Indian Education, appointment for bureau.
(b) Deputy Commissioner of Indian Education; compensation; duties; additional position.
1221g. National Advisory Council on Indian Education; termination of National Council.
(a) Establishment; membership; appointment; geographic representation.
(b) Functions of National Council.
(c) Contracts with nonprofit agencies for assistance in execution of functions of National Council.
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1221h. Definition of Indian.
1221i. Office of Libraries and Learning Resources.
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SUBCHAPTER II.—APPROPRIATIONS AND EVALUATIONS

PART 1.—APPROPRIATIONS

1226a. Contingent extension of programs [New].

PART 2.—PLANNING AND EVALUATION OF FEDERAL EDUCATION ACTIVITIES

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1226c. Annual evaluation reports to congressional committees [New].
(a) Time of submission; purpose; contents; survey of children, and educationally disadvantaged children, participation; "educationally disadvantaged children" defined.
(b) Contracts or grants for evaluation of programs; information.
1226d. Renewal evaluation reports to congressional committees [New].
(a) Time of submission.
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1227. Evaluations by Comptroller General [New].
(a) Requests by Congressional committees or members of committees; scope of undertaking; report to Congress.
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1228. Prohibition against use of appropriated funds for busing [New].

SUBCHAPTER III.—GENERAL REQUIREMENTS AND CONDITIONS CONCERNING OPERATION AND ADMINISTRATION OF EDUCATION PROGRAMS: GENERAL AUTHORITY OF COMMISSIONER OF EDUCATION

1230. Programs subject to provisions of this subchapter [New].

PART I.—GENERAL AUTHORITY

1231. Administration of education programs.
(a) Delegation of authority.
(b) Utilization of services and facilities of other agencies; payment for services in advance or by way of reimbursement.

Sec.
1231. Administration of education programs—continued
(c) Consolidation of programs; definition of "consolidation"; waiver of requirements or conditions; fund use limitations; specific authorization applicable to allotments, apportionments, allocations or other distributions; limitation of authority of executive branch office holders; transfer of functions.
1231b–1. Compilation of assisted innovative projects [New].
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(a) Persons aggrieved; final State educational agency actions; hearing; ruling and reasons for ruling; rescission of final actions.
(b) Appeals to Commissioner; persons aggrieved; notice; orders prescribing appropriate agency actions; finality of agency fact findings; interim orders pending appeal or review.
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PART II.—ADMINISTRATION: REQUIREMENTS AND LIMITATIONS

1232c. Administration of education programs and projects.
(a) Records and audit.
(b) Simplified State applications; requirements of general applications; annual program plans; applications for assistance to Commissioner; time of submission, information; conditions for approval.
(c) Noncompliance; notice and hearing; termination or suspension of payments.
(d) (1) Judicial review; actions of Commissioner.
(2) Petition for review; transmittal of copy to Commissioner; record of proceedings; conclusiveness of determinations; remand; jurisdiction of court of appeals; review by Supreme Court.
(e) "Application" defined.
1232f. State responsibility to furnish information [New].
(a) Report to Commissioner; contents.
(b) Report analysis and statistical data; submittal to congressional committees.
1232g. Family educational and privacy rights [New].
(a) Conditions for availability of funds to educational institutions; inspection and review of official records, files, and data; cumulative record folder; specific information to be made available; procedures for access to school records; reasonableness of time for such access; hearings; correction or deletion of inappropriate data.
(b) Release of records; parental consent requirement; compliance with judicial orders or subpoenas; audit and evaluation of Federally-supported education programs; written request; availability of forms; conditional transfer of information.
(c) Surveys or data-gathering activities; regulations.
(d) Students' rather than parents' permission or consent.
(e) Informing parents or students of rights under this section.
(f) Enforcement; termination of assistance.
(g) Office and review board; creation; functions.
1232h. Pupil rights, protection; inspection by parents or guardians of instructional material "research or experimentation program or project" defined [New].
1232i. Limitation on withholding of Federal funds [New].

SUBCHAPTER IV.—ADVISORY COUNCILS

Sec.
1233. Definitions.
1233a. Necessary advisory councils.
(a) Authorization; creation, appointment, and scope of activities.
(b) Termination or extension.
(c) Statement of activities.
1233b. Statutory advisory councils; membership: exclusion of Commissioner; term of office; reports to Congress.
1233c. Compensation and travel expenses of members of advisory councils.
1233d. Professional, technical, and clerical staff; technical assistance.
1233e. Meetings of advisory councils; minutes; contents and certification.
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1233g. Report by Commissioner of Education.
(a) Submission to congressional committees; contents.
(b) Abolishment or combining of statutory advisory councils; absence of congressional objections to recommendation of Commissioner.
1233h. Relation to other laws [New].

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in sections 1616, 1652 of this title.

§ 1221. General provisions.

(a) Short title.

This chapter may be cited as the "General Education Provisions Act."

(b) Applicability of chapter.

Except where otherwise specified, the provisions of this chapter shall apply to any program for which an administrative head of an education agency has administrative responsibility as provided by law or by delegation of authority pursuant to law.

(c) Definitions; applicability of civil rights provisions unaffected.

(1) For the purposes of this chapter, the term—

(A) "applicable program" means any program to which this chapter is, under the terms of subsection (b) of this section, applicable;

(B) "applicable statute" means—

(i) the Act or the title, part or section of an Act, as the case may be, which authorizes the appropriation for an applicable program;

(ii) this chapter; and

(iii) any other statute which under its terms expressly controls the administration of an applicable program;

(C) "Assistant Secretary" means the Assistant Secretary of Health, Education, and Welfare for Education;

(D) "Commissioner" means the Commissioner of Education;

(E) "Director" means the Director of the National Institute of Education; and

(F) "Secretary" means the Secretary of Health, Education, and Welfare.

(2) Nothing in this chapter shall be construed to affect the applicability of the Civil Rights Act of 1964 to any program subject to the provisions of this chapter.

(3) No Act making appropriations to carry out an applicable program shall be considered an applicable statute.

(d) Authorization of appropriations.

Except as otherwise limited in this chapter, there are authorized to be appropriated for any fiscal year such sums as may be necessary to carry out the provisions of this chapter.

(e) Limitations on appropriations; exemptions.

(1) The aggregate of the appropriations to the agencies in the Education Division and to the Office of the Assistant Secretary for any fiscal year shall not exceed the limitations set forth for that fiscal year in subparagraph (2).

(2)(A) Except as is provided in subparagraph (B), the appropriations to which paragraph (1) applies—

(i) shall not exceed $7,500,000,000 for the fiscal year ending June 30, 1975, $8,000,000,000 for the fiscal year ending June 30, 1976, and $9,000,000,000 for the fiscal year ending June 30, 1977; and

(ii) shall not exceed such amounts as may be authorized by the law and limited by this subparagraph.

(B) The limitations set forth in subparagraph (A) shall not apply—

(i) to uncontrollable expenditures under obligations created under part B of title IV of the Higher Education Act of 1965, parts C and D of title VII of such Act, and the Emergency Insured Student Loan Act of 1969; and

(ii) to any other expenditure under an obligation determined by the Commissioner pursuant to, or in accordance with, law to be an uncontrollable expenditure of the Office of Education.

(Pub. L. 90–247, title IV, § 400, formerly 401, Jan. 2, 1968, 81 Stat. 814, amended Pub. L. 90–576, title III, § 301(a), Oct. 16, 1968, 82 Stat. 1094; Pub. L. 91–230, title IV, § 401(a)(2), Apr. 13, 1970, 84 Stat. 164; renumbered Pub. L. 92–318, title III, § 301(a)(1), June 23, 1972, 86 Stat. 326, and amended Pub. L. 93–380, title V, § 505(a)(1), Aug. 21, 1974, 88 Stat. 561.)

REFERENCES IN TEXT

Civil Rights Act of 1964, referred to in subsec. (c)(2), means Pub. L. 88–352, which enacted section 2000a et seq., amended sections 1971 and 1975a–1975d, and enacted provisions set out as a note under section 2000e of Title 42, The Public Health and Welfare, amended former sections 2204 and 2205 of former Title 5, Executive Departments and Government Officers and Employees, and amended section 1447(d) of Title 28, Judiciary and Judicial Procedure.

Part B of title IV and parts C and D of title VII of Higher Education Act of 1965, referred to in subsec. (e)(2)(B)(i), are classified to sections 1071 et seq., 1132c et seq., and 1132d et seq. of this title.

Emergency Insured Student Loan Act of 1969, referred to in subsec. (e)(2)(B)(i), means Pub. L. 91–95, which enacted section 1078a of this title and amended sections 421 and 1061 of this title and section 2751 of Title 42, The Public Health and Welfare.

AMENDMENTS

1974—Subsec. (a). Pub. L. 93–380 redesignated former subsec. (d) as (a). Former subsec. (a) provisions "The provisions of this chapter shall apply to any program for which the Commissioner of Education has responsibility for administration, either as provided by statute or by delegation pursuant to statute. Amendments to Acts authorizing such programs shall not affect the applicability of this chapter unless so specified by such amendments" incorporated in part in subsec. (b) of this section.

Subsec. (b). Pub. L. 93–380 incorporated existing subsec. (a) provisions in subsec. (b), inserting introductory text "Except where otherwise specified,", substituting "an administrative head of an education agency has administrative responsibility as provided by law or by delegation of authority pursuant to law" for "the Commissioner of Education has responsibility for administration, either as provided by statute or by delegation pursuant to statute.", deleting "Amendments to Acts authorizing such programs shall not affect the applicability of this chapter unless so specified by such amendments." Former subsec. (b) definition provisions for "Commissioner", "Secretary", and "applicable program" incorporated in subsec. (c)(1) of this section.

Subsec. (c). Pub. L. 93–380 incorporated existing subsec. (b)(3), (1), (2) provisions in par. (1)(A), (D), (F), respectively; inserted in par. (1)(A) ", under the terms of subsection (b) of this section,"; and added pars. (1)(B), (C), (E), (2), and (3). Former subsec. (c) provisions "There are hereby authorized to be appropriated for any fiscal year, as part of the appropriations for salaries and expenses for the Office of Education, such sums as the Congress may determine to be necessary to carry out the provisions of this chapter," incorporated in subsec. (d) of this section.

Subsec. (d). Pub. L. 93–380 incorporated existing subsec. (c) provisions in provisions designated as subsec. (d), inserting introductory text "Except as otherwise limited in this chapter,", and deleting ", as part of the appropriations for salaries and expenses for the Office of Education," following "fiscal year".

Subsec. (e). Pub. L. 93–380 added subsec. (e).

EFFECTIVE DATE OF 1974 AMENDMENT

Section 505(b) of Pub. L. 93–380 provided that: "The amendments made by subsection (a) [amending this section and section 1221g(d) of this title] shall be effective on the tenth day after the date of enactment of this Act [Aug. 21, 1974]."

EX. ORD. NO. 11761. COORDINATION OF FEDERAL EDUCATION PROGRAMS

Ex. Ord. No. 11761, Jan. 17, 1974, 39 F.R. 2345, provided:

Sound public policy requires a continuing appraisal of the relation of Federal educational activities to the educational needs and goals of the Nation and to its educational systems and institutions. The scope of, and program outlays for, Federal educational activities have been expanded greatly and have a significant influence on education in this country and on the American people. Many Federal agencies are involved, both directly and indirectly, in carrying on educational programs either as Federal activities or in cooperation with State and local units of government. Continued close coordination of Federal educational activities will facilitate the resolution of common problems and otherwise promote effective planning and management of such activities.

Under the direction of the Secretary of Health, Education, and Welfare (hereinafter referred to as the Secretary), the Office of Education is directed by law to collect data on the progress of education, provide information to aid in the maintenance of efficient school systems, and otherwise promote the cause of education throughout the country (20 U.S.C. 1221c).

NOW, THEREFORE, by virtue of the authority vested in me as President of the United States, it is hereby ordered as follows:

SECTION 1. *Functions of the Secretary of Health, Education, and Welfare.* The Secretary, with the assistance of the Assistant Secretary for Education, shall identify the education needs and goals of the Nation and from time to time shall recommend to the President policies for promoting the progress of education.

SEC. 2. *Functions of the Assistant Secretary for Education.* Under the direction of the Secretary, the Assistant Secretary for Education shall:

(1) Study the current effects of Federal activities upon the educational programs of State, local and nonprofit educational institutions, assess future trends of such activities, and (taking into consideration the relationship between education and policies in fields such as manpower development, defense, military manpower, eco-

nomic growth, and science) develop recommendations for educational activities, or for coordination of policies affecting such activities;

(2) Exercise leadership in seeking timely resolution of difference of opinion concerning policies or administrative practices with respect to Federal educational activities affecting educational institutions;

(3) Make appropriate arrangements for obtaining advice and information, including establishment of ad hoc working groups to consider special problems, and for utilizing existing interagency machinery wherever appropriate; and

(4) Exercise initiative in obtaining pertinent and consistent data permitting an overview of Federal educational activities.

SEC. 3. *Agency Responsibilities.* The heads of Federal agencies, as to their respective education related programs, shall:

(1) Insofar as practicable, take such actions as may be necessary to assure: (A) Conformity of their programs with the educational goals and policies of the Nation, as identified by the Secretary, and (B) consistent administrative policies and practice among Federal agencies in the conduct of similar programs;

(2) Keep each other fully and currently informed in order to achieve coordinated planning and prevent unnecessary duplication of activities;

(3) Provide information requested by the Secretary or the Assistant Secretary for Education on educational matters; and

(4) Cooperate with the Secretary and the Assistant Secretary for Education in the conduct of such studies and analyses as may be necessary to carry out the responsibilities and duties assigned by this order. To this end the heads of Fedreal agencies shall maintain information on current and planned activities that can readily be analyzed in conjunction with information on related activities of other Federal agencies.

SEC. 4. *Establishment and functions of a Federal Interagency Committee on Education.* (a) There is hereby continued the "Federal Interagency Committee on Education" (hereinafter referred to as the "Committee").

(b) The Committee shall advise the Secretary, the Assistant Secretary for Education, and the heads of Federal agencies in connection with the responsibilities assigned to them by this order.

(c) The Committee shall be composed of the Assistant Secretary for Education, who shall be the chairman, the Commissioner of Education, the Director of the National Institute of Education, and one appropriate representative of each of the following: the Department of State, the Department of Defense, the Department of Agriculture, the Department of Labor, the National Science Foundation, the Atomic Energy Commission, and the National Aeronautics and Space Administration.

(d) The chairman may invite Federal agencies, in addition to those which are represented on the Committee under the provisions of subsection (c) of this Section, to designate representatives to participate in meetings of the Committee on matters of substantial interest to such agencies which are to be considered by the Committee.

(e) The Director of the Office of Management and Budget and the Chairman of the Council of Economic Advisers may each designate a member of his staff to attend meetings of the Committee as an observer.

SEC. 5. *Construction.* Nothing in this order shall be construed as subjecting any Federal agency, or any function vested by law in, or assigned pursuant to law to, any Federal agency, to the authority of any other Federal agency, or as abrogating or restricting any such function in any manner.

SEC. 6. *Definition.* Except as may be inconsistent with the provisions of this order or otherwise inappropriate, the term "Federal agency", as used herein, includes any department or other agency or instrumentality (including officers) of the executive branch of the Government of the United States.

SEC. 7. Executive Order No. 11185 of October 16, 1964, Executive Order No. 11260 of December 11, 1965, and Executive Order No. 11661 of March 24, 1972, are hereby superseded.

RICHARD NIXON.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1221g, 1226b, 1227, 1615 of this title.

§ 1221–1. National policy with respect to equal educational opportunity.

Recognizing that the Nation's economic, political, and social security require a well-educated citizenry, the Congress (1) reaffirms, as a matter of high priority, the Nation's goal of equal educational opportunity, and (2) declares it to be the policy of the United States of America that every citizen is entitled to an education to meet his or her full potential without financial barriers. (Pub. L. 93–380, title VIII, § 801, Aug. 21, 1974, 88 Stat. 597.)

CODIFICATION

Section was enacted as part of Education Amendments of 1974, and not as part of General Education Provisions Act, which is classified to this chapter.

EFFECTIVE DATE

Section effective on and after sixtieth day after Aug. 21, 1974, see section 2(c) of Pub. L. 93–380, set out as a note under section 241b of this title.

WHITE HOUSE CONFERENCE ON EDUCATION: REPORT OF FINDINGS AND RECOMMENDATIONS; NATIONAL CONFERENCE COMMITTEE: ESTABLISHMENT, MEMBERSHIP, REPORT TO PRESIDENT AND CONGRESS, TRAVEL EXPENSES; APPORTIONMENT OF FUNDS; AUTHORIZATION OF APPROPRIATIONS

Section 804 of Pub. L. 93–380 provided that:

"(a) The President is authorized to call and conduct a White House Conference on Education in 1977 (hereafter in this section referred to as the 'Conference') in order to stimulate a national assessment of the condition, needs, and goals of education and to obtain from a group of citizens broadly representative of all aspects of education, both public and nonpublic, a report of findings and recommendations with respect to such assessment.

"(b)(1) In carrying out the provisions of this section, participants in conferences and other activities at local, State, and Federal levels are authorized to consider all matters relevant to the purposes of the Conference set forth in subsection (a), but shall give special consideration to the following:

"(A) The implementation of the policy set forth in section 801 [this section].

"(B) The means by which educational systems are financed.

"(C) Preschool education (including child care and nutrition programs), with special attention to the needs of disadvantaged children.

"(D) The adequacy of primary education in providing all children with the fundamental skills of communication (reading, writing, spelling, and other elements of effective oral and written expression) and mathematics.

"(E) The effectiveness of secondary education in preparing students for careers, as well as for postsecondary education.

"(F) The place of occupational education (including education in proprietary schools) in the educational structure and the role of vocational and technical education in assuring that the Nation's requirements for skilled manpower are met.

"(G) The structure and needs of postsecondary education, including methods of providing adequate levels of student assistance and institutional support.

"(H) The adequacy of education at all levels in meeting the special educational needs of such individuals as handicapped persons, economically disadvantaged, racially or culturally isolated children, those who need bilingual instruction, and gifted and talented children.

"(I) Ways of developing and implementing expanded educational opportunities for adults at the basic and secondary education equivalency levels.

"(J) The contribution of nonpublic primary and secondary education in providing alternate educational

experiences for pupils and a variety of options for parents in guiding their children's development.

"(2) Participants in conference activities at the State and local levels are authorized to narrow the scope of their deliberations to the educational problems which they consider to be most critical in their respective areas, but shall be encouraged by the National Conference Committee (established pursuant to subsection (c)) to consider such problems in the context of the total educational structure.

"(c)(1) There is established a National Conference Committee (hereafter in this section referred to as the 'Committee'), composed of not more than thirty-five members, fifteen of whom shall be appointed by the President, ten of whom shall be appointed by the President pro tempore of the Senate, and ten of whom shall be appointed by the Speaker of the House of Representatives. The Committee shall at its first meeting select a Chairman and a Vice Chairman.

"(2)(A) The Committee shall provide guidance and planning for the Conference and shall make a final report (and such interim reports as may be desirable) of the results, findings, and recommendations of the Conference to the President and to the Congress not later than December 1, 1977.

"(B) The Committee is authorized to provide such assistance as may be necessary for State and local conference activities in preparation for the National Conference.

"(3) The Commissioner shall support the activities of the Committee by providing technical assistance, advice, and consultation.

"(4) Members of the Committee shall serve without compensation, but may receive travel expenses (including per diem in lieu of subsistence) as authorized by section 5703(b) of title 5, United States Code, for persons in the Government service employed intermittently, while employed in the business of the Committee away from their homes or regular places of business.

"(5) The Committee is authorized to appoint, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, a Conference Director and such professional, technical, and clerical personnel as may be necessary to assist in carrying out its functions under this section.

"(d)(1) From the sums appropriated pursuant to subsection (e) the Commissioner is authorized to make a grant to each State, upon application of the Governor thereof, in order to assist in meeting the costs of that State's participation in the Conference program (including the conduct of conferences at the State and local levels).

"(2) Grants made pursuant to paragraph (1) shall be made only with the approval of the Chairman of the Committee.

"(3) Funds appropriated for the purposes of this subsection shall be apportioned among the States by the Commissioner in accordance with their respective needs for assistance under this subsection, except that no State shall be apportioned more than $75,000 nor less than $25,000.

"(e) There are authorized to be appropriated, without fiscal year limitations, such sums as may be necessary to carry out the purposes of this section; and sums so appropriated shall remain available for expenditure until June 30, 1978.

"(f) For the purposes of this section, the term 'State' includes the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands."

Provisions effective on and after sixtieth day after Aug. 21, 1974, see section 2(c) of Pub. L. 93–380, set out as a note under section 241b of this title.

§ 1221–2. National policy with respect to museums as educational institutions.

The Congress, recognizing—

(1) that museums serve as sources for schools in providing education for children,

(2) that museums provide educational services of various kinds for educational agencies and institutions and institutions of higher education, and

(3) that the expense of the educational services provided by museums is seldom borne by the educational agencies and institutions taking advantage of the museums' resources,

declares that it is the sense of the Congress that museums be considered educational institutions and that the cost of their educational services be more frequently borne by educational agencies and institutions benefiting from those services. (Pub. L. 93–380, title VIII, § 803, Aug. 21, 1974, 88 Stat. 597.)

CODIFICATION

Section was enacted as part of Education Amendments of 1974, and not as part of General Education Provisions Act, which is classified to this chapter.

EFFECTIVE DATE

Section effective on and after sixtieth day after Aug. 21, 1974, see section 2(c) of Pub. L. 93–380, set out as a note under section 241b of this title.

SUBCHAPTER I.—EDUCATION DIVISION OF DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE [NEW]

§ 1221a. Education Division.

(a) Assistant Secretary.

There shall be, within the Department of Health, Education, and Welfare, an Education Division, composed of the agencies listed in subsection (b) of this section, which shall be headed by the Assistant Secretary.

(b) Office of Education and National Institute of Education; Office of Assistant Secretary: National Center for Education Statistics.

(1) The Education Division shall be composed of the following agencies:

(A) The Office of Education; and

(B) The National Institute of Education.

(2) In the Office of the Assistant Secretary there shall be a National Center for Education Statistics. (Pub. L. 90–247, title IV, § 401, as added Pub. L. 92–318, title III, § 301(a)(2), June 23, 1972, 86 Stat. 326, and amended Pub. L. 93–380, title V, § 504(a), Aug. 21, 1974, 88 Stat. 561.)

AMENDMENTS

1974—Pub. L. 93–380 incorporated existing sentence in provisions designated as subsecs. (a) and (b) and provided for a National Center for Education Statistics in the Office of the Assistant Secretary.

EFFECTIVE DATE OF 1974 AMENDMENT

Section 504(b) of Pub. L. 93–380 provided that: "The amendment made by subsection (a) [to this section] shall be effective on the tenth day after the date of enactment of this Act [Aug. 21, 1974]."

EFFECTIVE DATE

Section 301(b)(1) of Pub. L. 92–318 provided that: "The amendments made by subsection (a) [enacting this subchapter] shall be effective after June 30, 1972."

§ 1221b. Assistant Secretary for Education.

(a) Appointment; compensation.

There shall be in the Department of Health, Education, and Welfare an Assistant Secretary for Education, who shall be appointed by the President by and with the advice and consent of the Senate. The Assistant Secretary for Education shall be compen-

sated at the rate specified for level IV of the Executive Schedule under section 5315 of Title 5.

(b) Principal officer of Education Division.

The Assistant Secretary shall be the principal officer in the Department to whom the Secretary shall assign responsibility for the direction and supervision of the Education Division. (Pub. L. 90–247, title IV, § 402, as added Pub. L. 92–318, title III, § 301(a)(2), June 23, 1972, 86 Stat. 327, and amended Pub. L. 93–380, title V, § 502(a)(2)(A), Aug. 21, 1974, 88 Stat. 560.)

AMENDMENTS

1974—Subsec. (b). Pub. L. 93–380 deleted provisions of second sentence prohibiting the Assistant Secretary from serving as Commissioner of Education or as Director of National Institute of Education on either a temporary or permanent basis.

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment by Pub. L. 93–380 effective on tenth day after Aug. 21, 1974, see section 502(b) of Pub. L. 93–380, set out as a note under section 1221e–2 of this title.

EFFECTIVE DATE

Section effective after June 30, 1972, see section 301(b)(1) of Pub. L. 92–318, set out as a note under section 1221a of this title.

§ 1221c. Office of Education.

(a) Administration of financial assistance programs; authorities and responsibilities.

There shall be an Office of Education (hereinafter in this section referred to as the "Office") which shall be the primary agency of the Federal Government responsible for the administration of programs of financial assistance to educational agencies, institutions, and organizations. The Office shall have such responsibilities and authorities as may be vested in the Commissioner by law or delegated to the Commissioner in accordance with law.

(b) Commissioner of Education; appointment, direction, and supervision.

The Office shall be headed by the Commissioner of Education who shall be appointed by the President, by and with the advice and consent of the Senate, and who shall be subject to the direction and supervision of the Secretary.

(c) Bureaus and divisions; regional offices: location, functions, information centers, technical assistance, delegation of functions; reports to congressional committees.

(1) The Office shall, consistent with such organization thereof which is provided by law, be divided into bureaus, and such bureaus shall be divided into divisions as the Commissioner determines appropriate.

(2)(A) There shall be regional offices of the Office established in such places as the Commissioner, after consultation with the Assistant Secretary, shall determine. Such regional offices shall carry out such functions as are specified in subparagraph (B).

(B) The regional offices shall serve as centers for the dissemination of information about the activities of the agencies in the Education Division and provide technical assistance to State and local educational agencies, institutions of higher education, and other educational agencies, institutions, and organizations and to individuals and other groups having an interest in Federal education activities.

(C) The Commissioner shall not delegate to any employee in any regional office any function which was not carried out, in accordance with regulations effective prior to June 1, 1973, by employees in such offices unless the delegation of such function to employees in regional offices is expressly authorized by law enacted after August 21, 1974.

(3) The Commissioner shall submit to the Committee on Labor and Public Welfare of the Senate and the Committee on Education and Labor of the House of Representatives not later than November 1 of each year a report on the personnel needs and assignments of the Office. Such report shall include a description (A) of the manner in which the Office is organized and the personnel of the Office are assigned to the various functions of that agency and (B) of personnel needs of that agency in order to enable it to carry out its functions, as authorized by law. (Pub. L. 90–247, title IV, § 403, as added Pub. L. 92–318, title III, § 301(a)(2), June 23, 1972, 86 Stat. 327, and amended Pub. L. 93–380, title V, § 503(a), Aug. 21, 1974, 88 Stat. 560.)

AMENDMENTS

1974—Pub. L. 93–380, in revising the text, substituted subsecs. (a) to (c) providing in subsec.: (a) for administration of financial programs and authorities and responsibilities of the Office; (b) for a Commissioner of Education, his appointment and his direction and supervision by the Secretary; and (c) for bureaus and divisions, regional offices, and reports to congressional committees for prior provisions of subsec.: (a) respecting purpose and duties of the Office and limitation of its authority; and (b) respecting functions, appointment and removal, limitation of business activities, and conflict of interest of Commissioner of Education.

EFFECTIVE DATE OF 1974 AMENDMENT

Section 503(b) of Pub. L. 93–380 provided that: "The provisions of the amendments made by subsection (a) [to this section] shall be effective on the tenth day after the date of enactment of this Act [Aug. 21, 1974], except that the provisions of limitation set forth in section 403(c)(2)(C) of the General Education Provisions Act [subsec. (c)(2)(C) of this section] shall have effect on the date of such enactment [Aug. 21, 1974], and shall be retroactive to June 1, 1973."

EFFECTIVE DATE

Section effective after June 30, 1972, see section 301(b)(1) of Pub. L. 92–318, set out as a note under section 1221a of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1231a of this title.

§ 1221d. Grants and contracts for improvement of postsecondary education.

(a) Scope of projects or programs.

Subject to the provisions of subsection (b) of this section, the Secretary is authorized to make grants to, and contracts with, institutions of postsecondary education (including combinations of such institutions) and other public and private educational institutions and agencies (except that no grant shall be made to an educational institution or agency other than a nonprofit institution or agency) to improve postsecondary educational opportunities by providing assistance to such educational institutions and agencies for—

(1) encouraging the reform, innovation, and improvement of postsecondary education, and providing equal educational opportunity for all;

(2) the creation of institutions and programs involving new paths to career and professional training, and new combinations of academic and experimental learning;

(3) the establishment of institutions and programs based on the technology of communications;

(4) the carrying out in postsecondary educational institutions of changes in internal structure and operations designed to clarify institutional priorities and purposes;

(5) the design and introduction of cost-effective methods of instruction and operation;

(6) the introduction of institutional reforms designed to expand individual opportunities for entering and reentering institutions and pursuing programs of study tailored to individual needs;

(7) the introduction of reforms in graduate education, in the structure of academic professions, and in the recruitment and retention of faculties; and

(8) the creation of new institutions and programs for examining and awarding credentials to individuals, and the introduction of reforms in current instiutional practices related thereto.

(b) State Postsecondary Education Commission recommendations respecting postsecondary education projects or programs.

No grant shall be made or contract entered into under subsection (a) of this section for a project or program with any institution of postsecondary education unless it has been submitted to each appropriate State Commission established under section 1142a of this title, and an opportunity afforded such Commission to submit its comments and recommendations to the Secretary.

(c) Authority of Commissioner applicable to Secretary.

For the purposes of this section, the authority granted to the Commissioner in subchapter IV of this chapter shall apply to the Secretary.

(d) Technical personnel; appointment; term; number; functions; compensation.

The Secretary may appoint, for terms not to exceed three years, without regard to the provisions of Title 5 governing appointments in the competitive service, not more than five technical employees to administer this section who may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates.

(e) Authorization of appropriations.

There are authorized to be appropriated $10,000,000 for the fiscal year ending June 30, 1973, $50,000,000 for the fiscal year ending June 30, 1974, and $75,000,000 for the fiscal year ending June 30, 1975, for the purposes of this section. (Pub. L. 90–247, title IV, § 404, as added Pub. L. 92–318, title III, § 301(a)(2), June 23, 1972, 86 Stat. 327.)

EFFECTIVE DATE

Section effective after June 30, 1972, see section 301(b)(1) of Pub. L. 92–318, set out as a note under section 1221e of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1232 of this title.

§ 1221e. National Institute of Education.

(a) Congressional statement of policy.

(1) The Congress hereby declares it to be the policy of the United States to provide to every person an equal opportunity to receive an education of high quality regardless of his race, color, religion, sex, national origin, or social class. Although the American educational system has pursued this objective, it has not yet attained that objective. Inequalities of opportunity to receive high quality education remain pronounced. To achieve quality will require far more dependable knowledge about the processes of learning and education than now exists or can be expected from present research and experimentation in this field. While the direction of the education system remains primarily the responsibility of State and local governments, the Federal Government has a clear responsibility to provide leadership in the conduct and support of scientific inquiry into the educational process.

(2) The Congress further declares it to be the policy of the United States to—

(i) help to solve or to alleviate the problems of, and promote the reform and renewal of American education;

(ii) advance the practice of education, as an art, science, and profession;

(iii) strengthen the scientific and technological foundations of education; and

(iv) build an effective educational research and development system.

(b) Establishment; composition: National Council on Educational Research and Director of the Institute; functions of Institute.

(1) In order to carry out the policy set forth in subsection (a) of this section, there is established the National Institute of Education (hereinafter referred to as the "Institute") which shall consist of a National Council on Educational Research (referred to in this section as the "Council") and a Director of the Institute (hereinafter referred to as the "Director"). The Institute shall have only such authority as may be vested therein by this section.

(2) The Institute shall, in accordance with the provisions of this section, seek to improve education, including career education, in the United States through—

(A) helping to solve or to alleviate the problems of, and achieve the objectives of American education;

(B) advancing the practice of education, as an art, science, and profession;

(C) the strengthening of the scientific and technological foundations of education; and

(D) building an effective educational research and development system.

(c) Council; members; appointment; Director; ex officio members; quorum; Chairman; voting; term of office; functions; information and assistance.

(1) The Council shall consist of fifteen members appointed by the President, by and with the advice and consent of the Senate, the Director, and such other ex officio members who are officers of the United States as the President may designate. Eight members of the Council (excluding ex officio members) shall constitute a quorum. The Chairman of

the Council shall be designated from among its appointed members by the President. Ex officio members shall not have a vote on the Council.

(2) The term of office of the members of the Council (other than ex officio members) shall be three years, except that (A) the members first taking office shall serve as designated by the President, five for terms of three years, five for terms of two years, and five for terms of one year, and (B) any member appointed to fill a vacancy shall serve for the remainder of the term for which his predecessor was appointed. Any appointed member who has been a member of the Council for six consecutive years shall thereafter be ineligible for appointment to the Council during the two-year period following the expiration of such sixth year.

(3) The Council shall—

(A) establish general policies for, and review the conduct of, the Institute;

(B) advise the Assistant Secretary and the Director of the Institute on development of programs to be carried out by the Institute;

(C) present to the Assistant Secretary and the Director such recommendations as it may deem appropriate for the strengthening of educational research, the improvement of methods of collecting and disseminating the findings of educational research and of insuring the implementation of educational renewal and reform based upon the findings of educational research;

(D) conduct such studies as may be necessary to fulfill its functions under this section;

(E) prepare an annual report to the Assistant Secretary on the current status and needs of educational research in the United States;

(F) submit an annual report to the President on the activities of the Institute, and on education and educational research in general, (i) which shall include such recommendations and comments as the Council may deem appropriate, and (ii) shall be submitted to the Congress not later than March 31 of each year; and

(G) meet at the call of the Chairman, except that it shall meet (i) at least four times during each fiscal year, or (ii) whenever one-third of the members request in writing that a meeting be held.

The Director shall make available to the Council such information and assistance as may be necessary to enable the Council to carry out its functions.

(d) Director: appointment, compensation, duties, powers and authorities, accountability, delegation of functions; Deputy Director: appointment and removal, compensation, acting Director, additional position.

(1) The Director of the Institute shall be appointed by the President, by and with the advice and consent of the Senate. The Director shall be compensated at the rate provided for level V of the Executive Schedule under section 5316 of Title 5 and shall perform such duties and exercise such powers and authorities as the Council, subject to the general supervision of the Assistant Secretary, may prescribe. The Director shall be responsible to the Assistant Secretary and shall report to the Secretary through the Assistant Secretary and not to or through any other officer of the Department of Health, Education, and Welfare. The Director shall not delegate any of his functions to any other officer who is not directly responsible to him.

(2) There shall be a Deputy Director of the Institute (referred to in this section as the "Deputy Director") who shall be appointed by the President and shall serve at the pleasure of the President. The Deputy Director shall be compensated at the rate provided for grade 18 of the General Schedule set forth in section 5332 of Title 5 and shall act for the Director during the absence or disability of the Director and exercise such powers and authorities as the Director may prescribe. The position created by this paragraph shall be in addition to the number of positions placed in grade 18 of the General Schedule under section 5108 of Title 5.

(e) Research; definition of "educational research"; amount of funds; technical or professional personnel of Institute: appointment and compensation, term.

(1) In order to carry out the objectives of the Institute, the Director is authorized, through the Institute, to conduct educational research; collect and disseminate the findings of educational research; train individuals in educational research; assist and foster such research, collection, dissemination, or training through grants, or technical assistance to, or jointly financed cooperative arrangements with, public or private organizations, institutions, agencies, or individuals; promote the coordination of such research and research support within the Federal Government; and may construct or provide (by grant or otherwise) for such facilities as he determines may be required to accomplish such purposes. As used in this subsection, the term "educational research" includes research (basic and applied), planning, surveys, evaluations, investigations, experiments, developments, and demonstrations in the field of education (including career education).

(2) Not less than 90 per centum of the funds appropriated pursuant to subsection (h) of this section for any fiscal year shall be expended to carry out this section through grants or contracts with qualified public or private agencies and individuals.

(3) The Director may appoint, for terms not to exceed three years, without regard to the provisions of Title 5 governing appointment in the competitive service and may compensate without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, such technical or professional employees of the Institute as he deems necessary to accomplish its functions and also appoint and compensate without regard to such provisions not to exceed one-fifth of the number of full-time, regular technical or professional employees of the Institute.

(f) Repealed. Pub. L. 93-380, title V, § 502(a)(2)(B)(II), Aug. 21, 1974, 88 Stat. 560.

(g) Administration of funds from several sources for single project.

Where funds are advanced for a single project by more than one Federal agency for the purposes of this section, the National Institute of Education may act for all in administering the funds advanced.

(h) Authorization of appropriations.

There are hereby authorized to be appropriated, without fiscal year limitations, $550,000,000, in the aggregate, for the period beginning July 1, 1972, and ending June 30, 1975, to carry out the functions of the Institute. Sums so appropriated shall, notwithstanding any other provision of law unless enacted in express limitation of this subsection, remain available for the purposes of this subsection until expended. (Pub. L. 90–247, title IV, § 405, as added Pub. L. 92–318, title III, § 301(a)(2), June 23, 1972, 86 Stat. 328, and amended Pub. L. 93–380, title V, § 502(a)(2)(B), Aug. 21, 1974, 88 Stat. 560.)

AMENDMENTS

1974—Subsec. (d)(1). Pub. L. 93–380, § 502(a)(2)(B)(I), deleted from first sentence following "Senate" the words, ", and shall serve at the pleasure of the President".

Subsec. (f). Pub. L. 93–380, § 502(a)(2)(B)(II), repealed subsec. (f) provisions which related to specific powers of the Director, labor standards, and authority and functions of Secretary of Labor.

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment of subsec. (d)(1) and repeal of subsec. (f) by Pub. L. 93–380 effective on tenth day after Aug. 21, 1974, see section 502(b) of Pub. L. 93–380, set out as a note under section 1221e—2 of this title.

EFFECTIVE DATE

Section effective after June 30, 1972, see section 301(b)(1) of Pub. L. 92–318, set out as a note under section 1221a of this title.

STUDY OF PURPOSES AND EFFECTIVENESS OF COMPENSATORY EDUCATION PROGRAMS; INFORMATION, AVAILABILITY; REPORT TO PRESIDENT AND CONGRESS; STUDY PLAN, SUBMITTAL TO CONGRESS

Section 821 of Pub. L. 93–380 provided that:

"(a) In addition to the other authorities, responsibilities and duties conferred upon the National Institute of Education (hereinafter referred to as the 'Institute') by section 405 of the General Education Provisions Act [this section] and notwithstanding the second sentence of subsection (b)(1) of such section 405 [subsec. (b)(1) of this section], the Institute shall undertake a thorough evaluation and study of compensatory education programs, including such programs conducted by States and such programs conducted under title I of the Elementary and Secondary Education Act of 1965 [section 241a et seq. of this title]. Such study shall include—

"(1) an examination of the fundamental purposes of such programs, and the effectiveness of such programs in attaining such purposes;

"(2) an analysis of means to identify accurately the children who have the greatest need for such programs, in keeping with the fundamental purposes thereof;

"(3) an analysis of the effectiveness of methods and procedures for meeting the educational needs of children, including the use of individualized written educational plans for children, and programs for training the teachers of children;

"(4) an exploration of alternative methods, including the use of procedures to assess educational disadvantage, for distributing funds under such programs to States, to State educational agencies, and to local educational agencies in an equitable and efficient manner, which will accurately reflect current conditions and insure that such funds reach the areas of greatest current need and are effectively used for such areas;

"(5) not more than 20 experimental programs, which shall be reasonably geographically representative, to be administered by the Institute, in cases where the Institute determines that such experimental programs are necessary to carry out the purposes of clauses (1) through (4), and the Commissioner of Education is authorized, notwithstanding any provision of title I of the Elementary and Secondary Education Act of 1965 [section 241a et seq. of this title], at the request of the Institute, to approve the use of grants which educational agencies are eligible to receive under such title I [section 241a et seq. of this title] (in cases where the agency eligible for such grant agrees to such use) in order to carry out such experimental programs; and

"(6) findings and recommendations, including recommendations for changes in such title I [section 241a et seq. of this title] or for new legislation, with respect to the matters studied under clauses (1) through (5).

"(b) The National Advisory Council on the Education of Disadvantaged Children shall advise the Institute with respect to the design and execution of such study. The Commissioner of Education shall obtain and transmit to the Institute such information as it shall request with respect to programs carried on under title I of the Act.

"(c) The Institute shall make an interim report to the President and to the Congress not later than December 31, 1976, and shall make a final report thereto no later than nine months after the date of submission of such interim report, on the result of its study conducted under this section. Any other provision of law, rule, or regulation to the contrary notwithstanding, such reports shall not be submitted to any review outside of the Institute before their transmittal to the Congress, but the President and the Commissioner of Education may make to the Congress such recommendations with respect to the contents of the reports as each may deem appropriate.

"(d) Sums made available pursuant to section 151(f) of the Elementary and Secondary Education Act of 1965 [section 241o(1) of this title] shall be available to carry out the provisions of this section.

"(e)(1) The Institute shall submit to the Congress, within one hundred and twenty days after the date of the enactment of this Act [Aug. 21, 1974], a plan for its study to be conducted under this section. The Institute shall have such plan delivered to both Houses on the same day and to each House while it is in session. The Institute shall not commence such study until the first day after the close of the first period of thirty calendar days of continuous session of Congress after the date of the delivery of such plan to the Congress.

"(2) For purposes of paragraph (1)—

"(A) continuity of session is broken only by an adjournment of Congress sine die; and

"(B) the days on which either House is not in session because of an adjournment of more than three days to a day certain are excluded in the computation of the thirty-day period."

Provisions effective on and after sixtieth day after Aug. 21, 1974, see section 2(c) of Pub. L. 93–380, set out as a note under section 241b of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 880b–12, 880b–13, 1232, 1863 of this title.

§ 1221e–1. National Center for Education Statistics.

(a) Establishment; Administrator of Center, appointment.

There is established, within the Office of the Assistant Secretary, a National Center for Education Statistics (hereafter in this section referred to as the "Center"). The Center shall be headed by an Administrator who shall be appointed by the Assistant Secretary in accordance with the provisions of Title 5 relating to appointments in the competitive service.

(b) Purpose and functions.

The purpose of the Center shall be to collect and disseminate statistics and other data related to education in the United States and in other nations. The Center shall—

(1) collect, collate, and, from time to time, report full and complete statistics on the conditions of education in the United States;

(2) conduct and publish reports on specialized analyses of the meaning and significance of such statistics;

(3) assist State and local educational agencies in improving and automating their statistical and data collection activities; and

(4) review and report on educational activities in foreign countries.

(c) Advisory Council on Education Statistics; establishment; membership; appointees; political party affiliation, terms; ex officio members; presiding officer; meetings; quorum; section 1233g(b) provisions inapplicable; functions.

(1) There shall be an Advisory Council on Education Statistics which shall be composed of 7 members appointed by the Secretary and such ex officio members as are listed in subparagraph (2). Not more than 4 of the appointed members of the Council may be members of the same political party.

(2) The ex officio members of the Council shall be—

(A) the Commissioner of Education,

(B) the Director of the National Institute of Education,

(C) the Director of the Census, and

(D) the Commissioner of Labor Statistics.

(3) Appointed members of the Council shall serve for terms of 3 years, as determined by the Secretary, except that in the case of initially appointed members of the Council, they shall serve for shorter terms to the extent necessary that the terms of office of not more than 3 members expire in the same calendar year.

(4) The Assistant Secretary shall serve as the non-voting presiding officer of the Council.

(5)(A) The Council shall meet at the call of the presiding officer, except that it shall meet—

(i) at least four times during each calendar year; and

(ii) in addition, whenever three voting members request in writing that the presiding officer call a meeting.

(B) Six members of the Council shall constitute a quorum of the Council.

(6) The provisions of section 1233g(b) of this title shall not apply to the Council established under this subsection.

(7) The Council shall review general policies for the operation of the Center and shall be responsible for establishing standards to insure that statistics and analyses disseminated by the Center are of high quality and are not subject to political influence.

(d) Report to Congress; data publication standards.

(1) The Assistant Secretary shall, not later than March 1 of each year, submit to the Congress an annual report which—

(A) contains a description of the activities of the Center during the then current fiscal year and a projection of its activities during the succeeding fiscal year;

(B) sets forth estimates of the cost of the projected activities for such succeeding fiscal year; and

(C) includes a statistical report on the condition of education in the United States during the two preceding fiscal years and a projection, for the three succeeding fiscal years, of estimated statistics related to education in the United States.

(2) The Center shall develop and enforce standards designed to protect the confidentiality of persons in the collection, reporting, and publication of data under this section. This subparagraph shall not be construed to protect the confidentiality of information about institutions, organizations, and agencies receiving grants from or having contracts with the Federal Government.

(e) Grants and contracts for carrying out subsection (b) purposes; eligible persons.

In order to carry out the objectives of the Center, the Assistant Secretary is authorized, either directly or by grant or contract, to carry out the purposes set forth in subsection (b) of this section, and for that purpose the Assistant Secretary is authorized to make grants to, and contracts with public and private institutions, agencies, organizations and individuals.

(f)(1) Tables and other statistical records respecting education and special statistical compilations and surveys; compilations and surveys for congressional committees; payment of cost; joint statistical projects, equitable sharing of cost; separate account for funds, uses.

(A) The Center is authorized to furnish transcripts or copies of tables and other statistical records of the Office of Education, the Assistant Secretary, and the National Institute of Education to, and to make special statistical compilations and surveys, for, State or local officials, public and private organizations, or individuals. The Center shall furnish such special statistical compilations and surveys as the Committees on Labor and Public Welfare and on Appropriations of the Senate and the Committees on Education and Labor and on Appropriations of the House of Representatives may request. Such statistical compilations and surveys, other than those carried out pursuant to the preceding sentence, shall be made subject to the payment of the actual or estimated cost of such work. In the case of nonprofit organizations or agencies, the Assistant Secretary may engage in joint statistical projects, the cost of which shall be shared equitably as determined by the Assistant Secretary: *Provided*, That the purposes of such projects are otherwise authorized by law.

(B) All funds received in payment for work or services enumerated under subparagraph (A) shall be deposited in a separate account which may be used to pay directly the costs of such work or services, to repay appropriations which initially bore all or part of such costs, or to refund excess sums when necessary.

(2) Educational data consortium with other Federal agencies; access to data by interested parties.

(A) The Center shall participate with other Federal agencies having a need for educational data in forming a consortium for the purpose of providing direct joint access with such agencies to all educational data received by the Center through automated data processing. The Library of Congress, General Accounting Office, and the Committees on Labor and Public Welfare and Appropriations of the Senate and the Committees on Education and Labor and Appropriations of the House of Representatives shall, for the purposes of this subparagraph, be considered Federal agencies.

(B) The Center shall, in accordance with regulations published for the purpose of this paragraph, provide all interested parties, including public and private agencies and individuals, direct access to data collected by the Center for purposes of research and acquiring statistical information.

(3) Cooperation with Center; records and data available to Center.

The Commissioner and the National Institute of Education are directed to cooperate with the Center and make such records and data available to the Center as may be necessary to enable the Center to carry out its functions under this subsection.

(g) Limitation of funds for salaries and expenses, and grants and contracts; separate line item appropriations.

(1) The amount available for salaries and expenses of the Center shall not exceed $5,000,000 for the fiscal year ending June 30, 1975, $10,000,000 for the fiscal year ending June 30, 1976, and $14,000,000 for the fiscal year ending June 30, 1977.

(2) The amount available for grants and contracts by the Assistant Secretary under subsection (e) of this section shall not exceed $20,000,000 for the fiscal year ending June 30, 1975, $25,000,000 for the fiscal year ending June 30, 1976, and $30,000,000 for the fiscal year ending June 30, 1977.

(3) Sums appropriated for activities and expenses of the Center which are not limited by paragraph (2) of this subsection shall be appropriated apart from appropriations which are so limited, as separate line items. (Pub. L. 90–247, title IV, § 406, as added Pub. L. 93–380, title V, § 501(a), Aug. 21, 1974, 88 Stat. 556.)

EFFECTIVE DATE

Section 501(b)(1) of Pub. L. 93–380 provided that: "The amendments made by subsection (a) [enacting this section] shall be effective on the tenth day after the date of enactment of this Act [Aug. 21, 1974.]."

TRANSFER OF FUNCTIONS

Section 501(b)(3)(A) of Pub. L. 93–380 provided that: "All functions and authority vested in the Commissioner of Education which, immediately prior to the date [tenth day after Aug. 21, 1974] upon which the amendments made by subsection (a) become effective, are related to the collection, analysis, and dissemination of statistics about, and reports on the condition of, education in the Nation as determined by the Assistant Secretary are transferred, on such date [tenth day after Aug. 21, 1974] to the National Center for Education Statistics established under section 406 of the General Education Provisions Act [this section]."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1232 of this title.

§ 1221e–2. Education officers of United States.

(a) Definition.

For the purposes of this section, the term "education officer of the United States" means any person appointed by the President pursuant to this subchapter, except members of commissions, councils, and boards.

(b) Service.

Each education officer of the United States shall serve at the pleasure of the President.

(c) Conflict of interest.

No education officer of the United States shall engage in any other business, vocation, or employment while serving in the position to which he is appointed; nor may he except with the express approval of the President in writing, hold any office in, or act in any capacity for, or have any financial interest in, any organization, agency, or institution to which an agency in the Education Division makes a grant or with which any such agency makes a contract or any other financial arrangement.

(d) Dual employment.

No person shall hold, or act for, more than one position as an education officer of the United States for more than a 30 day period. (Pub. L. 90–247, title IV, § 407, as added Pub. L. 93–380, title V, § 502(a)(1), Aug. 21, 1974, 88 Stat. 559.)

EFFECTIVE DATE

Section 502(b) of Pub. L. 93–380 provided that: "The amendments made by this section [enacting sections 1221e–2 and 1221e–3, amending sections 1221b(b) and 1221e(d)(1), and repealing section 1221e(f) of this title] shall be effective on the tenth day after the date of enactment of this Act [Aug. 21, 1974]."

§ 1221e–3. General authority of administrative heads of education agencies.

(a) Rules and regulations for agency operation; personnel; gifts; transactions; construction of facilities; acquisition and disposal of property; reimbursement of Federal agencies for use of services.

Each administrative head of an education agency, in order to carry out functions otherwise vested in him by law, is, subject to limitations as may be otherwise imposed by law, authorized—

(1) to make, promulgate, issue, rescind, and amend rules and regulations governing the manner of operation of the agency of which he is head;

(2) in accordance with those provisions of Title 5 relating to the appointment and compensation of personnel and subject to such limitations as are imposed in this subchapter, to appoint and compensate such personnel as may be necessary to enable such agency to carry out its functions;

(3) to accept unconditional gifts or donations of services, money, or property (real, personal, or mixed; tangible or intangible);

(4) without regard for section 529 of Title 31, to enter into and perform such contracts, leases, cooperative agreements, or other transactions as may be necessary for the conduct of such agency;

(5) with funds expressly appropriated for such purpose, to construct such facilities as may be necessary to carry out functions vested in him or in the agency of which he is head, and to acquire and dispose of property; and

(6) to use the services of other Federal agencies and reimburse such agencies for such services.

(b) Delegation of functions.

Any administrative head of an education agency is, subject to any other limitations or delegations of authority provided by law, authorized to delegate any of his functions under this section to an officer or employee of that agency.

(c) "Administrative head of an education agency" defined.

For the purposes of this section, the term "administrative head of an education agency" means the

Commissioner and the Director of the National Institute of Education. To the extent that the Assistant Secretary is directly responsible for the administration of a program and to the extent that the Assistant Secretary is responsible for the supervision of the National Center for Education Statistics, the Assistant Secretary shall, for such purposes, be considered within the meaning of such term. (Pub. L. 90–247, title IV, § 408, as added Pub. L. 93–380, title V, § 502(a)(1), Aug. 21, 1974, 88 Stat. 559.)

EFFECTIVE DATE

Section effective on tenth day after Aug. 21, 1974, see section 502(b) of Pub. L. 93–380, set out as a note under section 1221e–2 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1232g, 1983 of this title.

§ 1221f. Office of Indian Education.

(a) Establishment; functions of bureau; Deputy Commissioner of Indian Education, appointment for bureau.

There is hereby established, in the Office of Education, a bureau to be known as the "Office of Indian Education" which, under the direction of the Commissioner, shall have the responsibility for administering the provisions of sections 241aa to 241ff, 887c, and 1211a of this title. The Office shall be headed by a Deputy Commissioner of Indian Education, who shall be appointed by the Commissioner of Education from a list of nominees submitted to him by the National Advisory Council on Indian Education.

(b) Deputy Commissioner of Indian Education; compensation; duties; additional position.

The Deputy Commissioner of Indian Education shall be compensated at the rate prescribed for, and shall be placed in, grade 18 of the General Schedule set forth in section 5332 of Title 5, and shall perform such duties as are delegated or assigned to him by the Commissioner. The position created by this subsection shall be in addition to the number of positions placed in grade 18 of such General Schedule under section 5108 of Title 5. (Pub. L. 92–318, title IV, § 441, June 23, 1972, 86 Stat. 343.)

CODIFICATION

Section was enacted as a part of the Indian Education Act and the Education Amendments of 1972, and not as a part of the Higher Education Act of 1965, which is classified to this chapter.

§ 1221g. National Advisory Council on Indian Education; termination of National Council.

(a) Establishment; membership; appointment; geographic representation.

There is hereby established the National Advisory Council on Indian Education (referred to in the Indian Education Act as the "National Council"), which shall consist of fifteen members who are Indians and Alaska Natives appointed by the President of the United States. Such appointments shall be made by the President from lists of nominees furnished, from time to time, by Indian tribes and organizations, and shall represent diverse geographic areas of the country. Subject to section 1233g(b) of this title, the National Council shall continue to exist until July 1, 1978.

(b) Functions of National Council.

The National Council shall—

(1) advise the Commissioner of Education with respect to the administration (including the development of regulations and of administrative practices and policies) of any program in which Indian children or adults participate from which they can benefit, including sections 241aa to 241ff and 887c of this title and with respect to adequate funding thereof;

(2) review applications for assistance under sections 241aa to 241ff, 887c, and 1211a of this title, and make recommendations to the Commissioner with respect to their approval;

(3) evaluate program and projects carried out under any program of the Department of Health, Education, and Welfare in which Indian children or adults can participate or from which they can benefit, and disseminate the results of such evaluations;

(4) provide technical assistance to local educational agencies and to Indian educational agencies, institutions, and organizations to assist them in improving the education of Indian children;

(5) assist the Commissioner in developing criteria and regulations for the administration and evaluation of grants made under section 241bb(b) of this title; and

(6) to submit to the Congress not later than March 31 of each year a report on its activities, which shall include any recommendations it may deem necessary for the improvement of Federal education programs in which Indian children and adults participate, or from which they can benefit, which report shall include statement of the National Council's recommendations to the Commissioner with respect to the funding of any such programs.

(c) Contracts with nonprofit agencies for assistance in execution of functions of National Council.

With respect to functions of the National Council stated in clauses (2), (3), and (4) of subsection (b) of this section, the National Council is authorized to contract with any public or private nonprofit agency, institution, or organization for assistance in carrying out such functions.

(d) Monies available for execution of functions.

From the sums appropriated pursuant to section 1221(d) of this title which are available for the purposes of section 1222 of this title and for subchapter IV of this chapter, the Commissioner shall make available such sums as may be necessary to enable the National Council to carry out its functions under this section. (Pub. L. 92–318, title IV, § 442, June 23, 1972, 86 Stat. 343, amended Pub. L. 93–380, title V, § 505(a)(2), title VIII, § 845(d), Aug. 21, 1974, 88 Stat. 562, 612.)

REFERENCES IN TEXT

For classification in the Code of the Indian Education Act, referred to in subsec. (a), which was substituted for "this title", meaning the Indian Education Act, see Short Title note set out under section 241aa of this title.

Section 1222 of this title, referred to in subsec. (d), which related to program planning and evaluation and provided for report to Congressional committees, was repealed by Pub. L. 93–380, title V, § 506(a)(1)(B), Aug. 21, 1974, 88 Stat. 562.

CODIFICATION

Section was enacted as a part of the Indian Education Act and the Education Amendments of 1972, and not as a part of the Higher Education Act of 1965, which is classified to this chapter.

AMENDMENTS

1974—Subsec. (a). Pub. L. 93–380, § 845(d), continued existence of National Council until July 1, 1978.

Subsec. (d). Pub. L. 93–380, § 505(a)(2), substituted reference to section "1221(d)" for "1221(c)" of this title.

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment of subsec. (a) by Pub. L. 93–380 effective on and after sixtieth day after Aug. 21, 1974, except as otherwise specified hereunder, see section 2(c) of Pub. L. 93–380. set out as a note under section 241b of this title.

Amendment of subsec. (d) by Pub. L. 93–380 effective on tenth day after Aug. 21, 1974, see section 505(b) of Pub. L. 93–380, set out as a note under section 1221 of this title.

§ 1221h. Definition of Indian.

For the purposes of the Indian Education Act, the term "Indian" means any individual who (1) is a member of a tribe, band, or other organized group of Indians, including those tribes, bands, or groups terminated since 1940 and those recognized now or in the future by the State in which they reside, or who is a descendant, in the first or second degree, of any such member, or (2) is considered by the Secretary of the Interior to be an Indian for any purpose, or (3) is an Eskimo or Aleut or other Alaska Native, or (4) is determined to be an Indian under regulations promulgated by the Commissioner, after consultation with the National Advisory Council on Indian Education, which regulations shall further define the term "Indian". (Pub. L. 92–318, title IV, § 453, June 23, 1972, 86 Stat. 345.)

REFERENCES IN TEXT

For classification in the Code of the Indian Education Act, referred to in text, which was substituted for "this title", meaning the Indian Education Act, see Short Title note set out under section 241aa of this title.

CODIFICATION

Section was enacted as a part of the Indian Education Act and the Education Amendments of 1972, and not as a part of the Higher Education Act of 1965, which is classified to this chapter.

§ 1221i. Office of Libraries and Learning Resources.

(a) Establishment; administration of specified programs.

There is established, in the Office of Education, an Office of Libraries and Learning Resources (hereafter in this section referred to as the "Office"), through which the Commissioner shall administer all programs in the Office of Education related to assistance for, and encouragement of, libraries and information centers and education technology.

(b) Director of Office; delegation of functions.

The Office shall be headed by a Director, to whom the Commissioner shall delegate his delegable functions with respect to the programs administered through the Office. (Pub. L. 93–380, title V, § 519, Aug. 21, 1974, 88 Stat. 576.)

CODIFICATION

Section was enacted as a part of Education Amendments of 1974, and not as a part of the General Education Provisions Act, which is classified to this chapter.

EFFECTIVE DATE

Section effective on and after sixtieth day after Aug. 21, 1974, see section 2(c) of Pub. L. 93–380, set out as a note under section 241b of this title.

SUBCHAPTER II.—APPROPRIATIONS AND EVALUATIONS

PART 1.—APPROPRIATIONS

AMENDMENTS

1974—Pub. L. 93–380, title V, § 506(a)(1)(A), Aug. 21, 1974, 88 Stat. 562, added part heading.

1972—Pub. L. 92–318, title III, § 301(a)(1), June 23, 1972, 86 Stat. 326, redesignated former subchapter I as II. Former subchapter II redesignated III.

§ 1222. Repealed. Pub. L. 93–380, title V, § 506(a)(1)(B), Aug. 21, 1974, 88 Stat. 562.

Section, Pub. L. 90–247, title IV, § 411, formerly 402, Jan. 2, 1968, 81 Stat. 814, amended Pub. L. 91–230, title IV, § 401(a)(3), Apr. 13, 1970, 84 Stat. 165, and renumbered Pub. L. 92–318, title III, § 301(a)(1), June 23, 1972, 86 Stat. 326, provided for program planning and evaluation and report to Congressional committees.

EFFECTIVE DATE OF REPEAL

Section repealed effective Aug. 21, 1974, see section 506(b) of Pub. L. 93–380, set out as a note under section 1225 of this title.

§ 1223. Advance appropriation of funds for elementary and secondary education programs.

Pub. L. 92–318, title III, § 301(a)(1), June 23, 1972, 86 Stat. 326, renumbered section 403 of Pub. L. 90–247 as section 412. Pub. L. 93–380, title V, § 506(a)(1)(C), Aug. 21, 1974, 88 Stat. 562, renumbered section 412 of Pub. L. 90–247 as section 411.

NATIONAL POLICY WITH RESPECT TO ADVANCE FUNDING OF EDUCATION PROGRAMS

Pub. L. 93–380, title VIII, § 802, Aug. 21, 1974, 88 Stat. 597, provided that: "The Congress declares it to be the policy of the United States to implement immediately and continually section 411 of the General Education Provisions Act [this section], relating to advance funding for education programs, so as to afford responsible State, local, and Federal officers adequate notice of available Federal financial assistance for education authorized under this Act [Pub. L. 93–380, see Short Title note under section 821 of this title], and other Acts of Congress."

Provision effective on and after sixtieth day after Aug. 21, 1974, see section 2(c) of Pub. L. 93–380, set out as a note under section 241b of this title.

§ 1224. Repealed. Pub. L. 93–380, title V, § 506(a)(1)(B), Aug. 21, 1974, 88 Stat. 562.

Section, Pub. L. 90–247, title IV, § 413, formerly 404, Jan. 2, 1968, 81 Stat. 814, amended Pub. L. 91–230, title IV, § 401(a)(5), (6), Apr. 13, 1970, 84 Stat. 165, and renumbered Pub. L. 92–318, title III, § 301(a)(1), June 23, 1972, 86 Stat. 326, provided for annual evaluation reports to Congressional committees, penultimate fiscal year reports, and contingent extension of expiring appropriation authority.

EFFECTIVE DATE OF REPEAL

Section repealed effective Aug. 21, 1974, see section 506(b) of Pub. L. 93–380, set out as a note under section 1225 of this title.

§ 1225. Availability of appropriations on academic or school year basis.

* * * * *

(b) Notwithstanding any other provision of law, unless enacted in specific limitation of the provisions of this subsection, any funds from appropriations to carry out any programs to which this chapter is applicable during any fiscal year, ending prior to July 1, 1978, which are not obligated and expended

by educational agencies or institutions prior to the beginning of the fiscal year succeeding the fiscal year for which such funds were appropriated shall remain available for obligation and expenditure by such agencies and institutions during such succeeding fiscal year.

(c) If any funds appropriated to carry out any applicable program are not obligated pursuant to a spending plan submitted in accordance with section 665(d)(2) of Title 31 and become available for obligation after the institution of a judicial proceeding seeking the release of such funds, then such funds shall be available for obligation and expenditure until the end of the fiscal year which begins after the termination of such judicial proceeding. (Pub. L. 90–247, title IV, § 412, formerly 405, Jan. 2, 1968, 81 Stat. 815, amended Pub. L. 91–230, title IV, § 401(a)(5), (7), (8), Apr. 13, 1970, 84 Stat. 165; renumbered § 414, Pub. L. 92–318, title III, § 301(a)(1), June 23, 1972, 86 Stat. 326; renumbered § 412, and amended Pub. L. 93–380, title V, § 506(a)(1)(D), (E), Aug. 21, 1974, 88 Stat. 562.)

AMENDMENTS

1974—Subsec. (b). Pub. L. 93–380, § 506(a)(1)(E), substituted "1978" for "1973" and inserted "by educational agencies or institutions" and "by such agencies and institutions" following "obligated and expended" and "obligation and expenditure", respectively.

Subsec. (c). Pub. L. 93–380, § 506(a)(1)(E), added subsec. (c).

EFFECTIVE DATE OF 1974 AMENDMENT

Section 506(b) of Pub. L. 93–380 provided that: "The amendments made by subsection (a) of this section [enacting sections 1226a to 1226d, amending this section and section 1227(c), and repealing sections 1222 and 1224 of this title] shall become effective on the date of enactment of this Act [Aug. 21, 1974]."

§ 1226. Availability of appropriations.

Pub. L. 92–318, title III, § 301(a)(1), June 23, 1972, 86 Stat. 326, renumbered section 406 of Pub. L. 90–247 as section 415. Pub. L. 93–380, title V, § 506(a)(2)(A), Aug. 21, 1974, 88 Stat. 563, redesignated section 415 of Pub. L. 90–247 as section 413.

AVAILABILITY OF FUNDS APPROPRIATED UNTIL JUNE 30, 1975 FOR APPLICABLE PROGRAMS

Section 1 of Pub. L. 93–269, Apr. 18, 1974, 88 Stat. 87 provided:

"That, (a) as used in this section, the term 'applicable program' means any program to which the General Education Provisions Act [this chapter] applies.

"(b)(1) Notwithstanding any other provision of law, unless enacted in express and specific limitation of the provisions of this section—

"(A) any funds appropriated to carry out any applicable program for the fiscal year 1973; and

"(B) any funds appropriated to carry out any applicable program for fiscal year 1974;

shall remain available for obligation and expenditure until June 30, 1975.

"(2) Nothing in this section shall be construed to approve of the withholding from expenditure or the delay in expenditure of any funds appropriated to carry out any applicable program for fiscal year 1973 beyond the period allowed for apportionment under subsection (d) of section 3679 of the Revised Statutes (31 U.S.C. 665) [section 665(d) of Title 31, Money and Finance]."

§ 1226a. Contingent extension of programs.

(a) Unless the Congress in the regular session which ends prior to the beginning of the terminal fiscal year—

(1) of the authorization of appropriations for an applicable program; or

(2) of the duration of an applicable program;

either—

(A) has passed or has formally rejected legislation which would have the effect of extending the authorization or duration (as the case may be) of that program; or

(B) by action of either the House of Representatives or the Senate, approves a resolution stating that the provisions of this section shall no longer apply to such program;

such authorization or duration is hereby automatically extended for one additional fiscal year. The amount appropriated for such additional year shall not exceed the amount which the Congress could, under the terms of the law for which the appropriation is made, have appropriated for such program during such terminal year.

(b)(1) For the purposes of clause (A) of subsection (a) of this section, the Congress shall not have been deemed to have passed legislation unless such legislation becomes law.

(2) In any case where the Commissioner is required under an applicable statute to carry out certain acts or make certain determinations which are necessary for the continuation of an applicable program, if such acts or determinations are required during the terminal year of such program, such acts and determinations shall be required during any fiscal year in which that part of subsection (a) of this section which follows clause (B) thereof is in operation. (Pub. L. 90–247, title IV, § 414, as added Pub. L. 93–380, title V, § 506(a)(2)(B), Aug. 21, 1974, 88 Stat. 563.)

EFFECTIVE DATE

Section effective Aug. 21, 1974, see section 506(b) of Pub. L. 93–380, set out as a note under section 1225 of this title.

PART 2.—PLANNING AND EVALUATION OF FEDERAL EDUCATION ACTIVITIES

AMENDMENTS

1974—Pub. L. 93–380, title V, § 506(a)(3)(C), Aug. 21, 1974, 88 Stat. 563, added Part heading.

§ 1226b. Program planning and evaluation.

Sums appropriated pursuant to section 1221(d) of this title may include for any fiscal year for which appropriations are otherwise authorized under any applicable program not to exceed $25,000,000 which shall be available to the Secretary, in accordance with regulations prescribed by him, for expenses, including grants, contracts, or other payments, for (1) planning for the succeeding year for any such program, and (2) evaluation of such programs. (Pub. L. 90–247, title IV, § 416, as added Pub. L. 93–380, title V, § 506(a)(3)(C), Aug. 21, 1974, 88 Stat. 563.)

EFFECTIVE DATE

Section effective Aug. 21, 1974, see section 506(b) of Pub. L. 93–380, set out as a note under section 1225 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1226c of this title.

§ 1226c. Annual evaluation reports to congressional committees.

(a) Time of submission; purpose; contents; survey of children, and educationally disadvantaged children, participation; "educationally disadvantaged children" defined.

(1) Not later than November 1 of each year, the Secretary shall transmit to the Committee on Education and Labor of the House of Representatives and the Committee on Labor and Public Welfare of the Senate an annual evaluation report which evaluates the effectiveness of applicable programs in achieving their legislated purposes together with recommendations relating to such programs for the improvement of such programs which will result in greater effectiveness in achieving such purposes. In the case of any evaluation report evaluating specific programs and projects, such report shall—

(A) set forth goals and specific objectives in qualitative and quantitative terms for all programs and projects assisted under the applicable program concerned and relate those goals and objectives to the purposes of such program;

(B) contain information on the progress being made during the previous fiscal year toward the achievement of such goals and objectives;

(C) describe the cost and benefits of the applicable program being evaluated during the previous fiscal year and identify which sectors of the public receive the benefits of such program and bear the costs of such program;

(D) contain plans for implementing corrective action and recommendations for new or amended legislation where warranted;

(E) contain a listing identifying the principal analyses and studies supporting the major conclusions and recommendations in the report; and

(F) be prepared in concise summary form with necessary detailed data and appendices.

(2) In the case of programs and projects assisted under title I of the Elementary and Secondary Education Act of 1965, the report under this subsection shall include a survey of how many of the children counted under section 241c(c) of this title participate in such programs and projects, and how many of such children do not, and a survey of how many educationally disadvantaged children participate in such programs and projects, and how many educationally disadvantaged children do not. For purposes of the preceding sentence, the term "educationally disadvantaged children" refers to children who are achieving one or more years behind the achievement expected at the appropriate grade level for such children.

(b) Contracts or grants for evaluation of programs; information.

Each evaluation report submitted pursuant to subsection (a) of this section shall contain: (1) a brief description of each contract or grant for evaluation of any program (whether or not such contract or grant was made under section 1226b of this title) any part of the performance of which occurred during the preceding year, (2) the name of the firm or individual who is to carry out the evaluation, and (3) the amount to be paid under the contract or grant.

(Pub. L. 90–247, title IV, § 417, as added Pub. L. 93–380, title V, § 506(a)(3)(C), Aug. 21, 1974, 88 Stat. 564.)

REFERENCES IN TEXT

Title I of the Elementary and Secondary Education Act of 1965, referred to in subsec. (a)(2), is classified to section 241a et seq. of this title.

EFFECTIVE DATE

Section effective Aug. 21, 1974, see section 506(b) of Pub. L. 93–380, set out as a note under section 1225 of this title.

§ 1226d. Renewal evaluation reports to congressional committees.

(a) Time of submission.

In the case of any applicable program for which—

(1) the authorization of appropriations expires; or

(2) the time during which payments or grants are to be made expires;

not later than one year prior to the date of such expiration, the Assistant Secretary shall submit to the Committee on Education and Labor of the House of Representatives and the Committee on Labor and Public Welfare of the Senate a comprehensive evaluation report on such program.

(b) Contents.

Any comprehensive evaluation report submitted pursuant to subsection (a) of this section shall contain—

(1) a history of the program concerned, including—

(A) a history of authorizations of appropriations, budget requests, appropriations, and expenditures for such programs;

(B) a history of legislative recommendations with respect to such program made by the President and the disposition of such recommendations, and

(C) a history of legislative changes made in applicable statutes with respect to such program;

(2) assuming a continuation of such program, recommendations for improvements (including legislative changes and funding levels) in such program with a view toward achieving the legislative purposes of such program;

(3) a compilation and summary of all evaluations of such program; and

(4) a recommendation with respect to whether such program should be continued, and the date of its expiration, and the reasons for such recommendation.

(Pub. L. 90–247, title IV, § 418, as added Pub. L. 93–380, title V, § 506(a)(3)(C), Aug. 21, 1974, 88 Stat. 564.)

EFFECTIVE DATE

Section effective Aug. 21, 1974, see section 506(b) of Pub. L. 93–380, set out as a note under section 1225 of this title.

§ 1227. Evaluations by Comptroller General.

(a) Requests by Congressional committees or members of committees; scope of undertaking; report to Congress.

The Comptroller General of the United States shall review, audit, and evaluate any Federal education program upon request by a committee of the

Congress having jurisdiction of the statute authorizing such program or, to the extent personnel are available, upon request by a member of such committee. Upon such request, he shall (1) conduct studies of statutes and regulations governing such program; (2) review the policies and practices of Federal agencies administering such program; (3) review the evaluation procedures adopted by such agencies carrying out such program; and (4) evaluate particular projects or programs. The Comptroller General shall compile such data as are necessary to carry out the preceding functions and shall report to the Congress at such times as he deems appropriate his findings with respect to such program and his recommendations for such modifications in existing laws, regulations, procedures and practices as will in his judgment best serve to carry out effectively and without duplication the policies set forth in education legislation relative to such program.

(b) Use of Federal agency contractual arrangements for private studies and services with respect to Federal educational programs; report to agencies and Congress.

In carrying out his responsibilities as provided in subsection (a) of this section, the Comptroller General shall give particular attention to the practice of Federal agencies of contracting with private firms, organizations and individuals for the provision of a wide range of studies and services (such as personnel recruitment and training, program evaluation, and program administration) with respect to Federal education programs, and shall report to the heads of the agencies concerned and to the Congress his findings with respect to the necessity for such contracts and their effectiveness in serving the objectives established in education legislation.

(c) Authorization of appropriations.

In addition to the sums authorized to be appropriated under section 1221(d) of this title, there are authorized to be appropriated such sums as may be necessary to carry out the purposes of this section. (Pub. L. 90–247, title VI, § 419, formerly 417, as added Pub. L. 92–318, title III, § 304, June 23, 1972, 86 Stat. 333, renumbered and amended Pub. L. 93–380, title V, § 506(a)(3)(A), (B), Aug. 21, 1974, 88 Stat. 563.)

AMENDMENTS

1974—Subsec. (c). Pub. L. 93–380, § 506(a)(3)(B), substituted reference to section "1221(d)" for "1221(c)" of this title.

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment by Pub. L. 93–380 effective Aug. 21, 1974, see section 506(b) of Pub. L. 93–380, set out as a note under section 1225 of this title.

§ 1228. Prohibition against use of appropriated funds for busing.

No funds appropriated for the purpose of carrying out any applicable program may be used for the transportation of students or teachers (or for the purchase of equipment for such transportation) in order to overcome racial imbalance in any school or school system, or for the transportation of students or teachers (or for the purchase of equipment for such transportation) in order to carry out a plan of racial desegregation of any school or school system, except for funds appropriated pursuant to title I of the Act of September 30, 1950, but not including any portion of such funds as are attributable to children counted under subpargaraph (C) of section 238(d)(2) of this title or section 244(1)(C) of this title. (Pub. L. 90–247, title IV, § 420, as added Pub. L. 93–380, title II, § 252, Aug. 21, 1974, 88 Stat. 519.)

REFERENCES IN TEXT

Title I of the Act of September 30, 1950, refered to in text, is classified to section 241a et seq. of this title.

EFFECTIVE DATE

Section effective on and after sixtieth day after Aug. 21, 1974, see section 2(c) of Pub. L. 93–380, set out as a note under section 241b of this title.

SUBCHAPTER III.—GENERAL REQUIREMENTS AND CONDITIONS CONCERNING OPERATION AND ADMINISTRATION OF EDUCATION PROGRAMS: GENERAL AUTHORITY OF COMMISSIONER OF EDUCATION

AMENDMENTS

1972—Pub. L. 92–318, title III, § 301(a)(1), June 23, 1972, 86 Stat. 326, redesignated former subchapter II as III. Former subchapter III redesignated IV.

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in section 1616 of this title.

§ 1230. Programs subject to provisions of this subchapter.

The provisions of this subchapter shall apply to any program for which the Commissioner has administrative responsibility, as specified by law or by delegation of authority pursuant to law. (Pub. L. 90–247, title IV, § 421, as added Pub. L. 93–380, title V, § 507(a), Aug. 21, 1974, 88 Stat. 565.)

EFFECTIVE DATE

Section 507(b) of Pub. L. 93–380 provided that: "The amendment made by subsection (a) [enacting this section] shall be effective on and after July 1, 1974."

PART I.—GENERAL AUTHORITY

§ 1231. Administration of education programs.

(a) Delegation of authority.

The Commissioner is authorized to delegate any of his functions under any applicable program, except the making of regulations and the approval of State plans, to any officer or employee of the Office of Education.

(b) Utilization of services and facilities of other agencies; payment for services in advance or by way of reimbursement.

In administering any applicable program, the Commissioner is authorized to utilize the services and facilities of any agency of the Federal Government and of any other public or nonprofit agency or institution in accordance with appropriate agreements, and to pay for such services either in advance or by way of reimbursement, as may be agreed upon.

(c) Consolidation of programs; definition of "consolidation", waiver of requirements or conditions; fund use limitations; specific authorization applicable to allotments, apportionments, allocations or other distributions; limitation of authority of executive branch officeholders; transfer of functions.

(1)(A) Except in the case of a law which—

(i) authorizes appropriations for carrying out, or controls the administration of, an applicable program, or

(ii) is enacted in express limitation of the provisions of this paragraph,

no provision of any law shall be construed to authorize the consolidation of any applicable program with any other program. Where the provisions of law governing the administration of an applicable program permit the packaging or consolidation of applications for grants or contracts to attain simplicity or effectiveness of administration, nothing in this subparagraph shall be deemed to interfere with such packaging or consolidation.

(B) No provision of any law which authorizes an appropriation for carrying out, or controls the administration of, an applicable program shall be construed to authorize the consolidation of any such program with any other program unless provision for such a consolidation is expressly made thereby.

(C) For the purposes of this subsection, the term "consolidation" means any agreement, arrangement, or the other procedure which results in—

(i) the commingling of funds derived from one appropriation with those derived from another appropriation.

(ii) the transfer of funds derived from an appropriation to the use of an activity not authorized by the law authorizing such appropriation.

(iii) the use of practices or procedures which have the effect of requiring, or providing for, the approval of an application for funds derived from different appropriations according to any criteria other than those for which provision is made (either expressly or implicitly) in the law which authorizes the appropriation of such funds, or this subchapter, or

(iv) as a matter of policy the making of a grant or contract involving the use of funds derived from one appropriation dependent upon the receipt of a grant or contract involving the use of funds derived from another appropriation.

(2)(A) No requirement or condition imposed by a law authorizing appropriations for carrying out any applicable program, or controlling the administration thereof, shall be waived or modified, unless such a waiver or modification is expressly authorized by such law or by a provision of this subchapter or by a law expressly limiting the applicability of this paragraph.

(B) There shall be no limitation on the use of funds appropriated to carry out any applicable program other than limitations imposed by the law authorizing the appropriation or a law controlling the administration of such program; nor shall any funds appropriated to carry out an applicable program be allotted, apportioned, allocated, or otherwise distributed in any manner or by any method different from that specified in the law authorizing the appropriation.

(3) No person holding office in the executive branch of the Government shall exercise any authority which would authorize or effect any activity prohibited by paragraph (1) or (2).

(4) The transfer of any responsibility, authority, power, duty, or obligation subject to this subchapter, from the Commissioner to any other officer in the executive branch of the Government, shall not affect the applicability of this subchapter with respect to any applicable program. (Pub. L. 90–247, title IV, § 421A, formerly § 411, as added Pub. L. 91–230, title IV, § 401(a)(10), Apr. 13, 1970, 84 Stat. 166, renumbered § 421, and amended Pub. L. 92–318, title III, §§ 301(a)(1), 302(a), June 23, 1972, 86 Stat. 326, 332; renumbered § 421A, Pub. L. 93–380, title V, § 507(a), Aug. 21, 1974, 88 Stat. 565.)

AMENDMENTS

1972—Subsec. (c). Pub. L. 92–318, § 302(a), added subsec. (c).

EFFECTIVE DATE OF 1972 AMENDMENT; INCONSISTENT PROVISIONS INEFFECTIVE

Section 302(c) of Pub. L. 92–318 provided that: "The provisions of section 421(c) of the General Education Provisions Act [subsec. (c) of this section] shall be effective upon the date of enactment of this Act [June 23, 1972]. No provision of any law which is inconsistent with such section 421(c) [subsec. (c) of this section] shall be effective nor shall any such provision control to the extent of such inconsistency, unless such a law is enacted after the date of enactment of this Act [June 23, 1972]."

§ 1231a. Collection and dissemination of information.

(a) Duties of Commissioner.

The Commissioner shall—

* * * * *

(4) prepare and publish an annual report (to be referred to as "the Commissioner's annual report") on (A) the condition of education in the nation, (B) developments in the administration, utilization, and impact of applicable programs, (C) results of investigations and activities by the Office of Education, and (D) such facts and recommendations as will serve the purpose for which the Office of Education is established (as set forth in section 1221c(a) of this title).

* * * * *

(Pub. L. 90–247, title IV, § 422, formerly § 412, as added Pub. L. 91–230, title IV, § 401(a)(10), Apr. 13, 1970, 84 Stat. 166, renumbered and amended Pub. L. 92–318, title III, § 301(a)(1), (b)(2)(B), June 23, 1972, 86 Stat. 326, 332.)

AMENDMENTS

1972—Subsec. (a)(4). Pub. L. 92–318, § 301(b)(2)(B), substituted "(as set forth in section 1221c(a) of this title)" for "(as set forth in section 1 of this title)".

EFFECTIVE DATE OF 1972 AMENDMENT

Section 301(b)(2)(B) of Pub. L. 92–318 provided in part that amendment of section by Pub. L. 92–318 shall be effective July 1, 1972.

§ 1231b. Catalog of Federal education assistance programs; transmittal to Congress.

Pub. L. 92–318, title III, § 301(a)(1), June 23, 1972, 86 Stat. 326, renumbered section 412 of Pub. L. 90–247 as section 423.

§ 1231b–1. Compilation of assisted innovative projects.

The Assistant Secretary shall publish annually a compilation of all innovative projects assisted under programs administered in the Education Division, including title III and part C of title IV of the Elementary and Secondary Education Act of 1965, in any year funds are used to carry out such programs. Such compilation shall be indexed according to subject, descriptive terms, and locations. (Pub. L. 90–247, title IV, § 424, as added Pub. L. 93–380, title V, § 508(a), Aug. 21, 1974, 88 Stat. 565.)

REFERENCES IN TEXT

Title III and part C of title IV of Elementary and Secondary Education Act of 1965, referred to in text, are classified to sections 841 et seq. and 1831 et seq. of this title, respectively.

EFFECTIVE DATE

Section 508(b) of Pub. L. 93-380 provided that: "The amendments made by subsection (a) [enacting this section and section 1231b-2 of this title] shall be effective on the date of enactment of this Act [Aug. 21, 1974]."

§ 1231b-2. Review of applications.

(a) Persons aggrieved; final State educational agency actions; hearing; ruling and reasons for ruling; rescission of final actions.

In the case of any applicable program under which financial assistance is provided to (or through) a State educational agency to be expended in accordance with a State plan approved by the Commissioner, and in the case of the program provided for in title I of the Elementary and Secondary Education Act of 1965, any applicant or recipient aggrieved by the final action of the State educational agency, and alleging a violation of State or Federal law, rules, regulations, or guidelines governing the applicable program, in (1) disapproving or failing to approve its application or program in whole or part, (2) failing to provide funds in amounts in accord with the requirements of laws and regulations, or (3) terminating further assistance for an approved program, may within thirty days request a hearing. Within thirty days after it receives such a request, the State educational agency shall hold a hearing on the record and shall review such final action. No later than ten days after the hearing the State educational agency shall issue its written ruling, including reasons therefor. If it determines such final action was contrary to Federal or State law, or the rules, regulations, and guidelines, governing such applicable program it shall rescind such final action.

(b) Appeals to Commissioner; persons aggrieved; notice; orders prescribing appropriate agency actions; finality of agency fact findings; interim orders pending appeal or review.

Any applicant or recipient aggrieved by the failure of a State educational agency to rescind its final action after a review under subsection (a) of this section may appeal such action to the Commissioner. An appeal under this subsection may be taken only if notice of such appeal is filed with the Commissioner within twenty days after the applicant or recipient has been notified by the State educational agency of the results of its review under subsection (a) of this section. If, on such appeal, the Commissioner determines the final action of the State educational agency was contrary to Federal law, or the rules, regulations, and guidelines governing the applicable program, he shall issue an order to the State educational agency prescribing appropriate action to be taken by such agency. On such appeal, findings of fact of the State educational agency, if supported by substantial evidence, shall be final. The Commissioner may also issue such interim orders to State educational agencies as he may deem necessary and appropriate pending appeal or review.

(c) Records; availability.

Each State educational agency shall make available at reasonable times and places to each applicant or recipient under a program to which this section applies all records of such agency pertaining to any review or appeal such applicant or recipient is conducting under this section, including records of other applicants.

(d) Termination of assistance for noncompliance with provisions or orders.

If any State educational agency fails or refuses to comply with any provision of this section, or with any order of the Commissioner under subsection (b) of this section, the Commissioner shall forthwith terminate all assistance to the State educational agency under the applicable program affected. (Pub. L. 90-247, title IV, § 425, as added Pub. L. 93-380, title V, § 508(a), Aug. 21, 1974, 88 Stat. 566.)

REFERENCES IN TEXT

Title I of Elementary and Secondary Education Act of 1965, referred to in subsec. (a), is classified to section 241a et seq. of this title.

EFFECTIVE DATE

Section effective Aug. 21, 1974, see section 508(b) of Pub. L. 93-380, set out as a note under section 1231b-1 of this title.

§§ 1231c to 1231e.

Pub. L. 92-318, title III, § 301(a)(1), June 23, 1972, 86 Stat. 326, renumbered sections 414 to 416 of Pub. L. 90-247 as sections 424 to 426. Pub. L. 93-380, title V, § 508(a), Aug. 21, 1974, 88 Stat. 565, redesignated sections 424 to 426 of Pub. L. 90-247 as sections 426 to 428, respectively.

§ 1231f. Authority to furnish information.

The Commissioner is authorized to transfer transcripts or copies of other records of the Office of Education to State and local officials, public and private organizations, and individuals. (Pub. L. 90-247, title IV, § 429, formerly 417, as added Pub. L. 91-230, title IV § 401(a)(10), Apr. 13, 1970, 84 Stat. 168, and renumbered § 427, Pub. L. 92-318, title III, § 301(a)(1), June 23, 1972, 86 Stat. 326; renumbered § 429, and amended Pub. L. 93-380, title V, §§ 501(b)(2), 508(a), Aug. 21, 1974, 88 Stat. 558, 565.)

AMENDMENTS

1974—Pub. L. 93-380, § 501(b)(2), substituted provision respecting authorization of Commissioner to transfer transcripts or copies of other records of the Office of Education to State and local officials, public and private organizations, and individuals for prior subsec. (a) and (b) provisions relating to Commissioner's authority to furnish information, the cost of statistical compilations and surveys, and uses of account moneys.

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment by Pub. L. 93-380 effective on and after sixtieth day after Aug. 21, 1974, see section 2(c) of Pub. L. 93-380, set out as a note under section 241b of this title.

TRANSFER OF FUNCTIONS

Section 501(b)(3)(B) of Pub. L. 93-380 provided that: "The functions and authority of the Commissioner of Education under section 427 [this section] relating to statistics prior to the date upon which the amendments made by subsection (a) [enacting section 1221e-1 of this title] become effective [tenth day after Aug. 21, 1974], together with all funds deposited in any account under such section [this section], are transferred, on such date [tenth day after Aug. 21, 1974] to the National Center for Education Statistics."

PART II.—ADMINISTRATION: REQUIREMENTS AND LIMITATIONS

§ 1232. Rules, regulations, guidelines, interpretations, or orders.

* * * * *

(b) Publication in Federal Register; opportunity for comment; exceptions; reconsideration; waiver of thirty day period.

(1) No standard, rule, regulation, or requirement of general applicability prescribed for the administration of any applicable program may take effect until thirty days after it is published in the Federal Register.

(2)(A) During the thirty-day period prior to the date upon which such standard, rule, regulation, or general requirement is to be effective, the Commissioner shall, in accordance with the provisions of section 553 of Title 5, offer any interested party an opportunity to make comment upon, and take exception to, such standard, rule, regulation, or general requirement and shall reconsider any such standard, rule, regulation, or general requirement upon which comment is made or to which exception is taken.

(B) If the Commissioner determines that the thirty-day requirement in paragraph (1) will cause undue delay in the implementation of a regulation, thereby causing extreme hardship for the intended beneficiaries of an applicable program, he shall notify the Committee on Education and Labor of the House of Representatives and the Committee on Labor and Public Welfare of the Senate. If neither committee disagrees with the determination of the Commissioner within 10 days after such notice, the Commissioner may waive such requirement with respect to such regulation.

* * * * *

(d) Transmittal to Speaker of House and President of Senate; effective date; concurrent resolution of disapproval; failure to adopt; waiting period affected by adjournments; formal statement of objection; effective date suspension letter; prescribed waiting period.

(1) Concurrently with the publication in the Federal Register of any final standard, rule, regulation, or requirement of general applicability as required in subsection (b) of this section, such final standard, rule, regulation, or requirement shall be transmitted to the Speaker of the House of Representatives and the President of the Senate. Such final standard, rule, regulation, or requirement shall become effective not less than forty-five days after such transmission unless the Congress shall, by concurrent resolution, find that the final standard, rule, regulation, or requirement is inconsistent with the Act from which it derives its authority, and disapprove such final standard, rule, regulation, or requirement. Failure of the Congress to adopt such a concurrent resolution with respect to any such final standard, rule, regulation, or requirement prescribed under any such Act, shall not represent, with respect to such final standard, rule, regulation, or requirement, an approval or finding of consistency with the Act from which it derives its authority for any purpose, nor shall such failure to adopt a concurrent resolution be construed as evidence of an approval or finding of consistency necessary to establish a prima facie case, or an inference or presumption, in any judicial proceeding.

(2) The forty-five-day period specified in paragraph (1) shall be deemed to run without interruption except during periods when either House is in adjournment sine die, in adjournment subject to the call of the Chair, or in adjournment to a day certain for a period of more than four consecutive days. In any such period of adjournment, the forty-five days shall continue to run, but if such period of adjournment is thirty calendar days, or less, the forty-five-day period shall not be deemed to have elapsed earlier than ten days after the end of such adjournment. In any period of adjournment which lasts more than thirty days, the forty-five-day period shall be deemed to have elapsed after thirty calendar days has elapsed, unless, during those thirty calendar days, either the Committee on Education and Labor of the House of Representatives, or the Committee on Labor and Public Welfare of the Senate, or both, shall have directed its chairman, in accordance with said committee's rules, and the rules of that House, to transmit to the appropriate department or agency head a formal statement of objection to the final standard, rule, regulation, or requirement. Such letter shall suspend the effective date of the final standard, rule, regulation, or requirement until not less than twenty days after the end of such adjournment, during which the Congress may enact the concurrent resolution provided for in this subsection. In no event shall the final standard, rule, regulation, or requirement go into effect until the forty-five-day period shall have elapsed, as provided for in this subsection, for both Houses of the Congress.

(e) Modification by agency; disposition of earlier Congressional disapproval.

Whenever a concurrent resolution of disapproval is enacted by the Congress under the provisions of this section, the agency which issued such standard, rule, regulation, or requirement may thereafter issue a modified standard, rule, regulation, or requirement to govern the same or substantially identical circumstances, but shall, in publishing such modification in the Federal Register and submitting it to the Speaker of the House of Representatives and the President of the Senate, indicate how the modification differs from the proposed standard, rule, regulation, or requirement of general applicability earlier disapproved, and how the agency believes the modification disposes of the findings by the Congress in the concurrent resolution of disapproval.

(f) Applicable programs.

For the purposes of subsections (d) and (e) of this section, activities under sections 1221d, 1221e, and 1221e–1 of this title, and under title IX of the Education Amendments of 1972 shall be deemed to be applicable programs.

(g) Schedule; submittal to congressional committees; contents; promulgation period; new schedule: congressional committee approval; promulgation of rules, regulations, and guidelines.

Not later than sixty days after the enactment of any part of any Act affecting the administration of any applicable program, the Commissioner shall submit to the Committee on Education and Labor of the House of Representatives and the Committee

on Labor and Public Welfare of the Senate a schedule in accordance with which the Commissioner has planned to promulgate rules, regulations, and guidelines implementing such Act or part of such Act. Such schedule shall provide that all such rules, regulations, and guidelines shall be promulgated within one hundred and eighty days after the submission of such schedule. Except as is provided in the following sentence, all such rules, regulations, and guidelines shall be promulgated in accordance with such schedule. If the Commissioner finds that, due to circumstances unforseen[1] at the time of the submission of any such schedule, he cannot comply with a schedule submitted pursuant to this subsection, he shall notify such committees of such finding and submit a new schedule. If both such committees notify the Commissioner of their approval of such new schedule, such rules, regulations, and guidelines shall be promulgated in accordance with such new schedule. (Pub. L. 90–247, title IV, § 431, formerly 421, as added Pub. L. 91–230, title IV, § 401(a)(10), Apr. 13, 1970, 84 Stat. 169, and renumbered Pub. L. 92–318, title III, § 301(a)(1), June 23, 1972, 86 Stat. 326, and amended Pub. L. 93–380, title V, § 509(a), Aug. 21, 1974, 88 Stat. 566; Pub. L. 94–142, § 7, Nov. 29, 1975, 89 Stat. 796.)

REFERENCES IN TEXT

Title IX of the Education Amendments of 1972, referred to in subsec. (f), is classified to chapter 38 of this title.

AMENDMENTS

1975—Subsec. (d)(1). Pub. L. 94–142, § 7(a)(1), (b), inserted "final" before "standard" wherever appearing in existing provisions and added provisions covering the effect of the failure of Congress to adopt the concurrent resolution with respect to any final standard, rule, regulation, or requirement.

Subsec. (d)(2). Pub. L. 94–142, § 7(a)(2), (3), substituted "objection to the final standard" for "objection to the proposed standard", "effective date of the final standard" for "effective date of the standard", and "In no event shall the final standard" for "In no event shall the standard".

1974—Subsec. (b). Pub. L. 93–380, § 509(a)(1), designated existing provisions as par. (1) and added par. (2).

Subsecs. (d)–(g). Pub. L. 93–380, § 509(a)(2), added subsecs. (d) to (g).

EFFECTIVE DATE OF 1975 AMENDMENT

Amendment by Pub. L. 94–142 effective Nov. 29, 1975, see section 8(b) of Pub. L. 94–142, set out as a note under section 1411 of this title.

EFFECTIVE DATE OF 1974 AMENDMENT

Section 509(b) of Pub. L. 93–380 provided that: "The amendment made by paragraph (2) of subsection (a) [enacting subsecs. (d)–(g) of this section] shall be effective on the date of enactment of this [Aug. 21, 1974] and shall be effective with respect to the provisions of this Act [see Short Title note under section 821 of this title]."

STUDY AND REPORT ON RULES AND REGULATIONS

Pub. L. 92–318, title V, § 503, June 23, 1972, 86 Stat. 346, provided that:

"(a) [*Scope of Study and Review*] The Commissioner shall conduct a study of all rules, regulations, guidelines, or other published interpretations or orders issued by him or by the Secretary of Health, Education, and Welfare (or any of their delegates) in connection with, or affecting, the administration of any program to which the General Education Provisions Act [this chapter] applies, which have been issued after June 30, 1965. Such study shall include a review of each such rule, regulation, guideline, interpretation, or orders as it relates to the statutory or other legal authority upon which it is based, and to committee reports relating to such statutory authority.

"(b) [*Report to Congressional Committees*] No later than one year after the enactment of this Act [June 23, 1972], the Commissioner shall submit a report on the study conducted pursuant to subsection (a) to the Committee on Labor and Public Welfare of the Senate and the Committee on Education and Labor of the House of Representatives which report shall include the specific legal authority of each section, or other division, of each rule, regulation, guideline, interpretation, or other order to which this section applies.

"(c) [*Publication in Federal Register; Hearings*] Not later than sixty days after the date of submission of the report required by subsection (b) of this section, all rules, regulations, guidelines, interpretations, or other orders to which this section applies shall be published in the Federal Register. During the sixty-day period following such publication, the Commissioner shall provide interested parties an opportunity for a public hearing on the matters so published.

"(d) [*Republication in Federal Register*] After a study of comments and recommendations offered to the Commissioner during the sixty-day period specified in subsection (c), he shall submit a report to the Committee on Labor and Public Welfare of the Senate and the Committee on Education and Labor of the House of Representatives on such comments and recommendations, and any action he has taken as a result thereof, and he shall, not later than sixty days after the period specified in subsection (c), republish all rules, regulations, guidelines, interpretations and orders in the Federal Register, which shall supersede all preceding rules, regulations, guidelines, interpretations and orders issued in connection with, or affecting, any program to which the General Education Provisions Act [this chapter] applies, and become effective thirty days after such republication."

[1] So in original.

§ 1232a. Prohibition against Federal control of education.

No provision of the Act of September 30, 1950, Public Law 874, Eighty-first Congress; the National Defense Education Act of 1958; the Act of September 23, 1950, Public Law 815, Eighty-first Congress; the Higher Education Facilities Act of 1963; the Elementary and Secondary Education Act of 1965; the Higher Education Act of 1965; the International Education Act of 1966; the Emergency School Aid Act; or the Vocational Education Act of 1963 shall be construed to authorize any department, agency, officer, or employee of the United States to exercise any direction, supervision, or control over the curriculum, program of instruction, administration, or personnel of any educational institution, school, or school system, or over the selection of library resources, textbooks, or other printed or published instructional materials by any educational institution or school system, or to require the assignment or transportation of students or teachers in order to overcome racial imbalance. (Pub. L. 90–247, title IV, § 432, formerly § 422, as added Pub. L. 91–230, title IV, § 401(a)(10), Apr. 13, 1970, 84 Stat. 169, renumbered and amended Pub. L. 92–318, title III, § 301(a)(1), title VII, § 717(b), June 23, 1972, 86 Stat. 326, 369.)

REFERENCES IN TEXT

The Act of September 30, 1950, Public Law 874, Eighty-first Congress, referred to in text, is classified to section 236 et seq. of this title.

The National Defense Education Act of 1958, referred to in text, is classified to section 401 et seq. of this title.

The Act of September 23, 1950, Public Law 815, Eighty-first Congress, referred to in text, is classified to section 631 et seq. of this title.

The International Education Act of 1966, referred to in text, is classified to section 1171 et seq. of this title.

The Emergency School Aid Act, referred to in text, is classified to section 1601 et seq. of this title.

The Vocational Education Act of 1963, referred to in text, is classified to section 1241 et seq. of this title.

The Higher Education Facilities Act of 1963, referred to in text, was classified to section 701 et seq. of this title, and is now covered by section 1132a et seq. of this title.

The Elementary and Secondary Education Act of 1965, referred to in text, is classified to section 821 et seq. of this title.

The Higher Education Act of 1965, referred to in text, is classified to section 1001 et seq. of this title.

AMENDMENTS

1972—Pub. L. 92–318 inserted reference to "the Emergency School Aid Act;" after "the International Education Act of 1966;".

§ 1232b. Labor standards.

Pub. L. 92–318, title III, § 301(a)(1), June 23, 1972, 86 Stat. 326, renumbered section 423 of Pub. L. 90–247 as section 433.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 241e of this title.

§ 1232c. Administration of education programs and projects.

(a) Records and audit.

(1) Each recipient of Federal funds under any applicable program through any grant, subgrant, contract, subcontract, loan, or other arrangement entered into (other than by formal advertising) shall keep such records as the Assistant Secretary shall prescribe, including records which fully disclose the amount and disposition by such recipient of the proceeds of such assistance, the total cost of the project or undertaking in connection with which such funds are given or used, the amount of that portion of the cost of the project or undertaking supplied by other sources, and such other records as will facilitate an effective audit.

(2) The Secretary and the Comptroller General of the United States, or any of their duly authorized representatives, shall, until the expiration of five years after the completion of the project or undertaking to which reference is made in paragraph (1), have access, for the purpose of audit and examination, to any books, documents, papers, and records of such recipients which, in the opinion of the Comptroller General, after consultation with the Assistant Secretary, may be related, or pertinent to, the grants, subgrants, contracts, subcontracts, loans, or other arrangements to which reference is made in paragraph (1).

(b) Simplified State applications; requirements of general applications; annual program plans; applications for assistance to Commissioner: time of submission, information; conditions for approval.

(1)(A) In the case of any State which applies, contracts, or submits a plan, for participation in any applicable program in which Federal funds are made available for assistance to local educational agencies through, or under the supervision of the State educational agency of that State, such State shall submit to, and maintain on file with, the Commissioner a general application meeting the requirements of this subsection. Such general application shall (i) provide for the submission by the State and approval by the Commissioner of an annual program plan with respect to the particular programs in which the State desires to participate and (ii) provide assurances—

(I) that the State will, through its State educational agency, provide for such methods of administration as are necessary for the proper and efficient administration of the programs to which the general application applies;

(II) that the State will make provision for such fiscal control and fund accounting procedures as may be necessary to assure proper disbursement of, and accounting for, Federal funds paid to the States under any applicable program;

(III) that the State will make provision for making such reports as the Commissioner may require to carry out his functions;

(IV) that the State will follow such policies and use such methods and practices of administration as will insure that non-Federal funds will not be supplanted by Federal funds; and

(V) that the State will submit to, and have approved by, the Commissioner an annual program plan in accordance with subparagraph (B).

(B) The annual program plan submitted by any State for any fiscal year with respect to any program to which this paragraph applies shall—

(i) be prepared and administered in a manner consistent with specific State plan requirements of the appropriate applicable statutes affecting the program for which the annual program plan is applicable;

(ii) set forth a statement describing the purposes for which Federal funds will be expended during the fiscal year for which the annual program plan is submitted; and

(iii) comply in all other respects with the specific requirements of the appropriate applicable statutes.

(2) In accordance with determinations and regulations of the Commissioner, the requirements of paragraph (1) shall be in lieu of comparable requirements for State plans in applicable statutes authorizing appropriations for programs to which paragraph (1) applies.

(3) In the case of any application for assistance under any applicable program to which paragraph (1) does not apply and with respect to which the Commissioner determines that this section would simplify the administration of an applicable program, each such application shall be submitted to the Commissioner at such time, in such manner, and containing such information as the Commissioner shall prescribe by regulation and, as a precondition for approval, shall—

(A) provide for such methods of administration as are necessary for the proper and efficient administration of the program or project for which application is made;

(B) make provision for such fiscal control and fund accounting procedures as may be necessary to assure proper disbursement of, and accounting for, Federal funds paid to the applicant under the application; and

(C) provide for making such reports as the Commissioner may require to carry out his functions.

(c) Noncompliance; notice and hearing; termination or suspension of payments.

Whenever the Commissioner, after reasonable notice and an opportunity for hearing, finds that there has been a failure, by any recipient of funds under any applicable program, to comply substantially with the terms to which such recipient has agreed in order to receive such funds, the Commissioner shall notify such recipient that further payments will not be made to such recipient under that program until he is satisfied that such recipient no longer fails to comply with such terms. Until the Commissioner is so satisfied, no further payments shall be made to such recipient. Pending the outcome of any termination proceeding initiated under this paragraph, the Commissioner may suspend payments to such recipient, after such recipient has been given reasonable notice and opportunity to show cause why such action should not be taken.

(d)(1) Judicial review; actions of Commissioner.

If any State has submitted an application for funds under any applicable program under which appropriations for such program are, by the applicable statute, allotted or apportioned among the States or under which the State (or local educational agencies in that State) is entitled to a portion of an appropriation therefor and the Commissioner disapproves such application, or if the Commissioner withholds payments to a State under paragraph (1)[1] of subsection (c) of this section, that State shall be entitled to judicial review of the actions of the Commissioner in accordance with the provisions of this paragraph.

(2) Petition for review; transmittal of copy to Commissioner; record of proceedings; fact findings; conclusiveness of determinations; remand; jurisdiction of court of appeals; review by Supreme Court.

(A) If any State, under circumstances qualifying for judicial review under this paragraph, desires judicial review of the Commission's action, such State may, within sixty days of such action, file with the United States Court of Appeals for the circuit in which such State is located a petition for review of such action. A copy of the petition shall be forthwith transmitted by the clerk of the court to the Commissioner. The Commissioner thereupon shall file in the court the record of the proceedings on which he based the action brought under this division, as provided in section 2112 of Title 28.

(B) The findings of fact by the Commissioner, if supported by substantial evidence, shall be conclusive; but the court, for good cause shown, may remand the case to the Commissioner to take further evidence, and the Commissioner may thereupon make new or modified findings of fact and may modify his previous action, and shall certify to the court the record of the further proceedings. Such new or modified findings of fact shall likewise be conclusive if supported by substantial evidence.

(C) The court shall have jurisdiction to affirm the action of the Commissioner or to set it aside, in whole or in part. The judgment of the court shall be subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of Title 28.

(e) "Application" defined.

For the purposes of this section, the term "application" includes—

(1) an application for a grant;

(2) an offer to make a contract;

(3) a State plan for the administration of an applicable program;

(4) State assurances with respect to the administration of such a program; and

(5) any other methods for seeking Federal funds from the Commissioner of Education;

under which an agency, institution, organization, or other organized entity may become the recipient of Federal funds. (Pub. L. 90–247, title IV, § 434, formerly § 424, as added Pub. L. 91–230, title IV, § 401(a)(10), Apr. 13, 1970, 84 Stat. 169, renumbered and amended Pub. L. 92–318, title III, § 301(a)(1), title V, § 501, June 23, 1972, 86 Stat. 326, 345; Pub. L. 93–380, title V, §§ 510, 511(a), Aug. 21, 1974, 88 Stat. 568, 569.)

AMENDMENTS

1974—Subsec. (a)(1). Pub. L. 93–380, § 510, substituted "Federal funds under any applicable program through any grant, subgrant, contract, subcontract, loan, or other arrangement entered into (other than by formal advertising)" for "funds from a grant or contract under any applicable program", "Assistant Secretary" for "Commissioner", and "such assistance" and "such funds" for "such grant" and "such grant or contract".

Subsec. (a)(2). Pub. L. 93–380, § 510, inserted in the text ", until the expiration of five years after the completion of the project or undertaking to which reference is made in paragraph (1)," preceding "have access" and substituted "such recipients which, in the opinion of the Comptroller General, after consultation with the Assistant Secretary, may be related, or pertinent to, the grants, subgrants, contracts, subcontracts, loans, or other arrangements to which reference is made in paragraph (1)" for "the recipients that are pertinent to the grant or contract received under any applicable program".

Subsec. (b). Pub. L. 93–380, § 511(a), added pars. (1) and (2), and incorporated existing provisions of former subsec. (b)(1)–(3) in provisions designated as par. (3) including subpars. (A) to (C), former subsec. (b) introductory text reading: "Each application for assistance under any applicable program, with respect to which the Commissioner determines that this subsection should apply, whether such application is approved by the Commissioner or by an agency administering a State plan approved by him and each State plan submitted to the Commissioner under any applicable program shall, as a precondition for approval—".

Subsecs. (c)–(e). Pub. L. 93–380, § 511(a), added subsecs. (c)–(e).

1972—Pub. L. 92-318, § 501(1), substituted "Administration of education programs and projects" for "Records and audit" as section heading.

Subsec. (a). Pub. L. 92–318, § 501(2), designated existing provisions as par. (1) and redesignated former subsec. (b) as par. (2).

Subsec. (b). Pub. L. 92–318, § 501(3), added subsec. (b). Former subsec. (b) redesignated subsec. (a)(2).

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment of subsec. (a) of this section by section 510 of Pub. L. 93–380 effective on and after sixtieth day

[1] So in original.

after Aug. 21, 1974, see section 2(c) of Pub. L. 93-380, set out as a note under section 241b of this title.

Section 511(b)(1) of Pub. L. 93-380 provided that: "The amendments made by subsection (a) [enacting subsecs. (b)-(e) and deleting former subsec. (b) of this section] shall be effective on and after July 1, 1974."

APPLICABILITY OF ADMINISTRATIVE PROCEDURE TO OFFICE OF EDUCATION OR ACTIONS BY COMMISSIONER UNAFFECTED BY SUBSECS. (b)-(e)

Section 511(b)(2) of Pub. L. 93-380 provided that: "Nothing in the amendment made by subsection (a) [enacting subsecs. (b)-(e) and deleting former subsec. (b) of this section] shall be construed to affect the applicability of chapter 5 of title 5, United States Code to the Office of Education or actions by the Commissioner."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1865 of this title.

§§ 1232d, 1232e.

Pub. L. 92-318, title III, § 301(a)(1), June 23, 1972, 86 Stat. 326, renumbered sections 425 and 426 of Pub. L. 90-247 as sections 435 and 436.

§ 1232f. State responsibility to furnish information.

(a) Report to Commissioner; contents.

The Commissioner shall require that each State submit to him, within sixty days after the end of any fiscal year, a report on the uses of Federal funds in that State under any applicable program for which the State is responsible for administration. Such report shall—

(1) list all grants and contracts made under such program to the local educational agencies and other public and private agencies and institutions within such State during such year;

(2) include the total amount of funds available to the State under each such program for such fiscal year and specify from which appropriation Act or Acts these funds were available;

(3) with respect to the second preceding fiscal year, include a compilation of reports from local educational agencies and other public and private agencies and institutions within such State which sets forth the amount of such Federal funds received by each such agency and the purposes for which such funds were expended;

(4) with respect to such second preceding fiscal year, include a statistical report on the individuals served or affected by programs, projects, or activities assisted with such Federal funds; and

(5) be made readily available by the State to local educational agencies and other public and private agencies and institutions within the State, and to the public.

(b) Report analysis and statistical date; submittal to congressional committees.

On or before October 15 of each year, the Commissioner shall submit to the Committee on Labor and Public Welfare of the Senate and to the Committee on Education and Labor of the House of Representatives an analysis of these reports and a compilation of statistical data derived therefrom. (Pub. L. 90-247, title IV, § 437, as added Pub. L. 93-380, title V, § 512(a), Aug. 21, 1974, 88 Stat. 571.)

EFFECTIVE DATE

Section 512(b) of Pub. L. 93-380 provided that: "The amendments made by subsection (a) [enacting this section] shall be effective upon enactment of this Act [Aug. 21, 1974]."

§ 1232g. Family educational and privacy rights.

(a) Conditions for availability of funds to educational agencies or institutions; inspection and review of education records; specific information to be made available; procedure for access to education records; reasonableness of time for such access; hearings; written explanations by parents; definitions.

(1)(A) No funds shall be made available under any applicable program to any educational agency or institution which has a policy of denying, or which effectively prevents, the parents of students who are or have been in attendance at a school of such agency or at such institution, as the case may be, the right to inspect and review the education records of their children. If any material or document in the education record of a student includes information on more than one student, the parents of one of such students shall have the right to inspect and review only such part of such material or document as relates to such student or to be informed of the specific information contained in such part of such material. Each educational agency or institution shall establish appropriate procedures for the granting of a request by parents for access to the education records of their children within a reasonable period of time, but in no case more than forty-five days after the request has been made.

(B) The first sentence of subparagraph (A) shall not operate to make available to students in institutions of postsecondary education the following materials:

(i) financial records of the parents of the student or any information contained therein;

(ii) confidential letters and statements of recommendation, which were placed in the education records prior to January 1, 1975, if such letters or statements are not used for purposes other than those for which they were specifically intended;

(iii) if the student has signed a waiver of the student's right of access under this subsection in accordance with subparagraph (C), confidential recommendations—

(I) respecting admission to any educational agency or institution,

(II) respecting an application for employment, and

(III) respecting the receipt of an honor or honorary recognition.

(C) A student or a person applying for admission may waive his right of access to confidential statements described in clause (iii) of subparagraph (B), except that such waiver shall apply to recommendations only if (i) the student is, upon request, notified of the names of all persons making confidential recommendations and (ii) such recommendations are used solely for the purpose for which they were specifically intended. Such waivers may not be required as a condition for admission to, receipt of financial aid from, or receipt of any other services or benefits from such agency or institution.

(2) No funds shall be made available under any applicable program to any educational agency or institution unless the parents of students who are or have been in attendance at a school of such agency or at such institution are provided an opportunity for a hearing by such agency or institution, in accordance with regulations of the Secretary, to challenge

the content of such student's education records in order to insure that the records are not inaccurate, misleading, or otherwise in violation of the privacy or other rights of students, and to provide an opportunity for the correction or deletion of any such inaccurate, misleading or otherwise inappropriate data contained therein and to insert into such records a written explanation of the parents respecting the content of such records.

(3) For the purposes of this section the term "educational agency or institution" means any public or private agency or institution which is the recipient of funds under any applicable program.

(4)(A) For the purposes of this section, the term "education records" means, except as may be provided otherwise in subparagraph (B), those records, files, documents, and other materials which—

(i) contain information directly related to a student; and

(ii) are maintained by an educational agency or institution or by a person acting for such agency or institution.

(B) The term "education records" does not include—

(i) records of instructional, supervisory, and administrative personnel and educational personnel ancillary thereto which are in the sole possession of the maker thereof and which are not accessible or revealed to any other person except a substitute;

(ii) if the personnel of a law enforcement unit do not have access to education records under subsection (b)(1) of this section, the records and documents of such law enforcement unit which (I) are kept apart from records described in subparagraph (A), (II) are maintained solely for law enforcement purposes, and (III) are not made available to persons other than law enforcement officials of the same jurisdiction;

(iii) in the case of persons who are employed by an educational agency or institution but who are not in attendance at such agency or institution, records made and maintained in the normal course of business which relate exclusively to such person in that person's capacity as an employee and are not available for use for any other purpose; or

(iv) records on a student who is eighteen years of age or older, or is attending an institution of postsecondary education, which are made or maintained by a physician, psychiatrist, psychologist, or other recognized professional or paraprofessional acting in his professional or paraprofessional capacity, or assisting in that capacity, and which are made, maintained, or used only in connection with the provision of treatment to the student, and are not available to anyone other than persons providing such treatment, except that such records can be personally reviewed by a physician or other appropriate professional of the student's choice.

(5)(A) For the purposes of this section the term "directory information" relating to a student includes the following: the student's name, address, telephone listing, date and place of birth, major field of study, participation in officially recognized activities and sports, weight and height of members of athletic teams, dates of attendance, degrees and awards received, and the most recent previous educational agency or institution attended by the student.

(B) Any educational agency or institution making public directory information shall give public notice of the categories of information which it has designated as such information with respect to each student attending the institution or agency and shall allow a reasonable period of time after such notice has been given for a parent to inform the institution or agency that any or all of the information designated should not be released without the parent's prior consent.

(6) For the purposes of this section, the term "student" includes any person with respect to whom an educational agency or institution maintains education records or personally identifiable information, but does not include a person who has not been in attendance at such agency or institution.

(b) Release of education records; parental consent requirement; exceptions; compliance with judicial orders and subpoenas; audit and evaluation of Federally-supported education programs; record-keeping.

(1) No funds shall be made available under any applicable program to any educational agency or institution which has a policy or practice of permitting the release of education records (or personally identifiable information contained therein other than directory information, as defined in paragraph (5) of subsection (a) of this section) of students without the written consent of their parents to any individual, agency, or organization, other than to the following—

(A) other school officials, including teachers within the educational institution or local educational agency, who have been determined by such agency or institution to have legitimate educational interest;

(B) officials of other schools or school systems in which the student seeks or intends to enroll, upon condition that the student's parents be notified of the transfer, receive a copy of the record if desired, and have an opportunity for a hearing to challenge the content of the record;

(C) authorized representatives of (i) the Comptroller General of the United States, (ii) the Secretary, (iii) an administrative head of an education agency (as defined in section 1221e-3(c) of this title), or (iv) State educational authorities under the conditions set forth in paragraph (3) of this subsection;

(D) in connection with a student's application for, or receipt of, financial aid;

(E) State and local officials or authorities to whom such information is specifically required to be reported or disclosed pursuant to State statute adopted prior to November 19, 1974;

(F) organizations conducting studies for, or on behalf of, educational agencies or institutions for the purpose of developing, validating, or administering predictive tests, administering student aid programs, and improving instruction, if such studies are conducted in such a manner as will

not permit the personal identification of students and their parents by persons other than representatives of such organizations and such information will be destroyed when no longer needed for the purpose for which it is conducted;

(G) accrediting organizations in order to carry out their accrediting functions;

(H) parents of a dependent student of such parents, as defined in section 152 of Title 26; and

(I) subject to regulations of the Secretary, in connection with an emergency, appropriate persons if the knowledge of such information is necessary to protect the health or safety of the student or other persons.

Nothing in clause (E) of this paragraph shall prevent a State from further limiting the number or type of State or local officials who will continue to have access thereunder.

(2) No funds shall be made available under any applicable program to any educational agency or institution which has a policy or practice of releasing, or providing access to, any personally identifiable information in education records other than directory information, or as is permitted under paragraph (1) of this subsection unless—

(A) there is written consent from the student's parents specifying records to be released, the reasons for such release, and to whom, and with a copy of the records to be released to the student's parents and the student if desired by the parents, or

(B) such information is furnished in compliance with judicial order, or pursuant to any lawfully issued subpoena, upon condition that parents and the students are notified of all such orders or subpoenas in advance of the compliance therewith by the educational institution or agency.

(3) Nothing contained in this section shall preclude authorized representatives of (A) the Comptroller General of the United States, (B) the Secretary, (C) an administrative head of an education agency or (D) State educational authorities from having access to student or other records which may be necessary in connection with the audit and evaluation of Federally-supported education program, or in connection with the enforcement of the Federal legal requirements which relate to such programs: *Provided*, That except when collection of personally identifiable information is specifically authorized by Federal law, any data collected by such officials shall be protected in a manner which will not permit the personal identification of students and their parents by other than those officials, and such personally identifiable data shall be destroyed when no longer needed for such audit, evaluation, and enforcement of Federal legal requirements.

(4) (A) Each educational agency or institution shall maintain a record, kept with the education records of each student, which will indicate all individuals (other than those specified in paragraph (1) (A) of this subsection), agencies, or organizations which have requested or obtained access to a student's education records maintained by such educational agency or institution, and which will indicate specifically the legitimate interest that each such person, agency, or organization has in obtaining this information. Such record of access shall be available only to parents, to the school official and his assistants who are responsible for the custody of such records, and to persons or organizations authorized in, and under the conditions of, clauses (A) and (C) of paragraph (1) as a means of auditing the operation of the system.

(B) With respect to this subsection, personal information shall only be transferred to a third party on the condition that such party will not permit any other party to have access to such information without the written consent of the parents of the student.

(c) Surveys or data-gathering activities; regulations.

The Secretary shall adopt appropriate regulations to protect the rights of privacy of students and their families in connection with any surveys or data-gathering activities conducted, assisted, or authorized by the Secretary or an administrative head of an education agency. Regulations established under this subsection shall include provisions controlling the use, dissemination, and protection of such data. No survey or data-gathering activities shall be conducted by the Secretary, or an administrative head of an education agency under an applicable program, unless such activities are authorized by law.

(d) Students' rather than parents' permission or consent.

For the purposes of this section, whenever a student has attained eighteen years of age, or is attending an institution or postsecondary education the permission or consent required of and the rights accorded to the parents of the student shall thereafter only be required of and accorded to the student.

(e) Informing parents or students of rights under this section.

No funds shall be made available under any applicable program to any educational agency or institution unless such agency or institution informs the parents of students, or the students, if they are eighteen years of age or older, or are attending an institution of postsecondary education, of the rights accorded them by this section.

(f) Enforcement; termination of assistance.

The Secretary, or an administrative head of an education agency, shall take appropriate actions to enforce provisions of this section and to deal with violations of this section, according to the provisions of this chapter, except that action to terminate assistance may be taken only if the Secretary finds there has been a failure to comply with the provisions of this section, and he has determined that compliance cannot be secured by voluntary means.

(g) Office and review board; creation; functions.

The Secretary shall establish or designate an office and review board within the Department of Health, Education, and Welfare for the purpose of investigating, processing, reviewing, and adjudicating violations of the provisions of this section and complaints which may be filed concerning alleged violations of this section. Except for the conduct of hearings, none of the functions of the Secretary under this section shall be carried out in any of the regional

offices of such Department. (Pub. L. 90–247, title IV, § 438, as added Pub. L. 93–380, title V, § 513(a), Aug. 21, 1974, 88 Stat. 571, and amended Pub. L. 93–568, § 2(a), Dec. 31, 1974, 88 Stat. 1858.)

AMENDMENTS

1974—Subsec. (a)(1). Pub. L. 93–568, § 2(a)(1)(A)–(C), (2)(A)–(C), (3), designated existing par. (1) as subpar. (A), and in subpar. (A) as so designated, substituted reference to educational agencies and institutions for reference to state or local educational agencies, institutions of higher education, community colleges, schools, agencies offering preschool programs, and other educational institutions, substituted the generic term education records for the enumeration of such records, and extended the right to inspect and review such records to parents of children who have been in attendance, and added subpars. (B) and (C).

Subsec. (a)(2). Pub. L. 93–568, § 2(a)(4), substituted provisions making the availability of funds to educational agencies and institutions conditional on the granting of an opportunity for a hearing to parents of students who are or have been in attendance at such institution or agency to challenge the contents of the student's education records for provisions granting the parents an opportunity for such hearing, and added provisions authorizing insertion into the records a written explanation of the parents respecting the content of such records.

Subsec. (a)(3). Pub. L. 93–568, § 2(a)(1)(G) added subsec. (a)(3).

Subsec. (a)(4), (5). Pub. L. 93–568, § 2(a)(2)(F) added subsec. (a)(4) and (5).

Subsec. (a)(6). Pub. L. 93–568, § 2(a)(5) added subsec. (a)(6).

Subsec. (b)(1). Pub. L. 93–568, § 2(a)(1)(D), (2)(D), (6), (8)(A)–(C), (10)(A), in provisions preceding subpar. (A), substituted "educational agency or institution which has a policy of permitting the release of education records (or personally identifiable information contained therein other than directory information, as defined in paragraph (5) of subsection (a) of this section)" for "state or local educational agency, any institution of higher education, any community college, any school, agency offering a preschool program, or any other educational institution which has a policy or practice of permitting the release of personally identifiable records or files (or personal information contained therein)", in subpar. (A), substituted "educational agency, who have been determined by such agency or institution to have" for "educational agency who have", in subpar. (B), substituted "the student seeks or intends to" for "the student intends to", in subpar. (C), substituted reference to "section 408(c)" for reference to "section 409 of this Act" which for purposes of codification has been translated as "section 1221e–3(c) of this title", and added subpars. (E)–(I).

Subsec. (b)(2). Pub. L. 93–568, § 2(a)(1)(E), (2)(E), substituted "educational agency or institution which has a policy or practice of releasing, or providing access to, any personally identifiable information in education records other than directory information, or as is permitted under paragraph (1) of this subsection" for "state or local educational agency, any institution of higher education, any community college, any school, agency offering a preschool program, or any other educational institution which has a policy or practice of furnishing, in any form, any personally identifiable information contained in personal school records, to any persons other than those listed in subsection (b)(1) of this section".

Subsec. (b)(3). Pub. L. 93–568, § 2(a)(8)(D), substituted "information is specifically authorized by Federal law, any data collected by such officials shall be protected in a manner which will not permit the personal identification of students and their parents by other than those officials, and such personally identifiable data shall be destroyed when no longer needed for such audit, evaluation, and enforcement of Federal legal requirements" for "data is specifically authorized by Federal law, any data collected by such officials with respect to individual students shall not include information (including social security numbers) which would permit the personal identification of such students or their parents after the data so obtained has been collected".

Subsec. (b)(4). Pub. L. 93–568, § 2(a)(9), substituted provisions that each educational agency or institution maintain a record, kept with the education records of each student, indicating individuals, agencies, or organizations who obtained access to the student's record and the legitimate interest in obtaining such information, that such record of access shall be available only to parents, school officials, and their assistants having responsibility for the custody of such records, and as a means of auditing the operation of the system, for provisions that with respect to subsecs. (c)(1), (c)(2), and (c)(3) of this section, all persons, agencies, or organizations desiring access to the records of a student shall be required to sign forms to be kept with the records of the student, but only for inspection by the parents or the student, indicating specifically the legitimate educational or other interest of the person seeking such information, and that the form shall be available to parents and school officials having responsibility for record maintenance as a means of auditing the operation of the system.

Subsec. (e). Pub. L. 93–568, § 2(a)(1)(F), substituted "to any educational agency or institution unless such agency or institution" for "unless the recipient of such funds".

Subsec. (g). Pub. L. 93–568, § 2(a)(7), (10)(B), struck out reference to sections 1232c and 1232f of this title and added provisions that except for the conduct of hearings, none of the functions of the Secretary under this section shall be carried out in any of the regional offices of such Department.

EFFECTIVE DATE OF 1974 AMENDMENT

Section 2(b) of Pub. L. 93–568 provided that: "The amendments made by subsection (a) [amending this section] shall be effective, and retroactive to, November 19, 1974."

EFFECTIVE DATE

Section 513(b)(1) of Pub. L. 93–380 provided that: "The provisions of this section [classified to this section] shall become effective ninety days after the date of enactment [Aug. 21, 1974] of section 438 of the General Education Provisions Act [this section]."

SHORT TITLE

Section 513(b)(2) of Pub. L. 93–380 provided that: "This section [classified to this section and provisions set out as a note under this section] may be cited as the 'Family Educational Rights and Privacy Act of 1974'."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1231i, 1417 of this title.

§ 1232h. Pupil rights, protection; inspection by parents or guardians of instructional material; "research or experimentation program or project" defined.

All instructional material, including teacher's manuals, films, tapes, or other supplementary instructional material which will be used in connection with any research or experimentation program or project shall be available for inspection by the parents or guardians of the children engaged in such program or project. For the purpose of this section "research or experimentation program or project" means any program or project in any applicable program designed to explore or develop new or unproven teaching methods or techniques. (Pub. L. 90–247, title IV, § 439, as added Pub. L. 93–380, title V, § 514(a), Aug. 21, 1974, 88 Stat. 574.)

EFFECTIVE DATE

Section 514(b) of Pub. L. 93–380 provided that: "The amendment made by subsection (a) [enacting this section] shall be effective upon enactment of this Act [Aug. 21, 1974]."

§ 1232i. Limitation on withholding of Federal funds.

Except as provided in section 1232g(b)(1)(D) of this title, the refusal of a State or local educational agency or institution of higher education, community college, school, agency offering a preschool program, or other educational institution to provide personally identifiable data on students or their families, as a part of any applicable program, to any Federal office, agency, department, or other third party, on the grounds that it constitutes a violation of the right to privacy and confidentiality of students or their parents, shall not constitute sufficient grounds for the suspension or termination of Federal assistance. Such a refusal shall also not constitute sufficient grounds for a denial of, a refusal to consider, or a delay in the consideration of, funding for such a recipient in succeeding fiscal years. In the case of any dispute arising under this section, reasonable notice and opportunity for a hearing shall be afforded the applicant. (Pub. L. 90–247, title IV, § 440, as added Pub. L. 93–380, title V, § 515(a), Aug. 21, 1974, 88 Stat. 574.)

EFFECTIVE DATE

Section 515(b) of Pub. L. 93–380 provided that: "The amendment made by subsection (a) [enacting this section] shall be effective upon enactment of this Act [Aug. 21, 1974]."

SUBCHAPTER IV.—ADVISORY COUNCILS

AMENDMENTS

1972—Pub. L. 92–318, title III, § 301(a)(1), June 23, 1972, 86 Stat. 326, redesignated former subchapter III as IV.

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 880b–11, 900a–4, 1053, 1221d, 1221g, 1615, 1616, 1864, 1865, 1866 of this title.

§§ 1233, 1233a.

Pub. L. 92–318, title III, § 301(a)(1), June 23, 1972, 86 Stat. 326, renumbered sections 431 and 432 of Pub. L. 90–247 as sections 441 and 442.

TERMINATION OF ADVISORY COUNCILS

Advisory Councils in existence on January 5, 1973, to terminate not later than the expiration of the two-year period following January 5, 1973, unless, in the case of a Council established by the President or an officer of the Federal Government, such Council is renewed by appropriate action prior to the expiration of such two-year period, or in the case of a Council established by the Congress, its duration is otherwise provided by law, see sections 3(2) and 14 of Pub. L. 92–463, Oct. 6, 1972, 86 Stat. 770, 776, set out in the Appendix to Title 5, Government Organization and Employees.

SECTION REFERRED TO IN OTHER SECTIONS

Section 1233 is referred to in section 1233h of this title.

§ 1233b. Statutory advisory councils; membership; exclusion of Commissioner; term of office; reports to Congress; Presidential advisory councils: appointment by President or Secretary to vacancies in membership.

(a) Notwithstanding any other provision of law unless expressly in limitation of the provisions of this section, each statutory advisory council—

(1) shall be composed of the number of members provided by statute who may be appointed, without regard to the provisions of Title 5 governing appointment in the competitive service, and shall serve for terms of not to exceed three years, which in the case of initial members, shall be staggered; and

(2) shall make an annual report of its activities, findings and recommendations to the Congress not later than March 31 of each calendar year, which shall be submitted with the Commissioner's annual report.

The Commissioner shall not serve as a member of any such advisory council.

(b) Where the President fails to appoint a member to fill a vacancy in the membership of a Presidential advisory council within sixty days after it occurs (or after the effective date of the statute creating such council), then the Secretary shall immediately appoint a member to fill such vacancy. (Pub. L. 90–247, title IV, § 443, formerly 433, as added Pub. L. 91–230, title IV, § 401(a)(10), Apr. 13, 1970, 84 Stat. 171, and renumbered Pub. L. 92–318, title III, § 301(a)(1), June 23, 1972, 86 Stat. 326, and amended Pub. L. 93–380, title V, § 516(a), Aug. 21, 1974, 88 Stat. 575.)

AMENDMENTS

1974—Pub. L. 93–380 designated existing provisions as subsec. (a) and added subsec. (b).

EFFECTIVE DATE OF 1974 AMENDMENT

Section 516(b) of Pub. L. 93–380 provided that "The amendment made by subsection (a) [to this section] shall be effective upon enactment of this Act [Aug. 21, 1974]."

TERMINATION OF ADVISORY COUNCILS

Advisory Councils in existence on January 5, 1973, to terminate not later than the expiration of the two-year period following January 5, 1973, unless, in the case of a Council established by the President or an officer of the Federal Government, such Council is renewed by appropriate action prior to the expiration of such two-year period, or in the case of a Council established by the Congress, its duration is otherwise provided by law, see sections 3(2) and 14 of Pub. L. 92–463, Oct. 6, 1972, 86 Stat. 770, 776, set out in the Appendix to Title 5, Government Organization and Employees.

§ 1233c. Compensation and travel expenses of members of advisory councils.

Pub. L. 92–318, title III, § 301(a)(1), June 23, 1972, 86 Stat. 326, renumbered section 434 of Pub. L. 90–247 as section 444.

TERMINATION OF ADVISORY COUNCILS

Advisory Councils in existence, on January 5, 1973, to terminate not later than the expiration of the two-year period following January 5, 1973, unless, in the case of a Council established by the President or an officer of the Federal Government, such Council is renewed by appropriate action prior to the expiration of such two-year period, or in the case of a Council established by the Congress, its duration is otherwise provided by law, see sections 3(2) and 14 of Pub. L. 92–463, Oct. 6, 1972, 86 Stat. 770, 776, set out in the Appendix to Title 5, Government Organization and Employees.

§ 1233d. Professional, technical, and clerical staff; technical assistance; compensation.

* * * * *

(b) The Assistant Secretary shall engage such personnel and technical assistance as may be required to permit Secretarial and Commissioner's advisory councils to carry out their functions as prescribed by law.

(c) Subject to regulations of the Assistant Secretary, Presidential advisory councils are authorities to procure temporary and intermittent services of

such personnel as are necessary to the extent authorized by section 3109 of Title 5, but at rates not to exceed the rate specified at the time of such service for grade GS–18 in section 5332 of such title.

(d) No employee of an advisory council, appointed and compensated pursuant to this section, shall be compensated at a rate in excess of that which such employee would receive if such employee were appointed subject to the appropriate provisions of Title 5 regarding appointments to, and compensation with respect to, the competitive service, except that—

(1) executive directors of Presidential advisory councils shall be compensated at the rate specified for employees placed in grade 18 of the General Schedule set forth in section 5332 of such Title 5;

(2) executive directors of all other statutory advisory councils shall be compensated at the rate provided for employees in grade 15 of such General Schedule; and

(3) in accordance with regulations promulgated by the Assistant Secretary, other employees of advisory councils shall be compensated at such rates as may be necessary to enable such advisory councils to accomplish their purposes.

(Pub. L. 90–247, title IV, § 445, formerly 435, as added Pub. L. 91–230, title IV, § 401(a)(10), Apr. 13, 1970, 84 Stat. 171, and renumbered Pub. L. 92–318, title III, § 301(a)(1), June 23, 1972, 86 Stat. 326, and amended Pub. L. 93–380, title V, § 517(a), Aug. 21, 1974, 88 Stat. 575.)

AMENDMENTS

1974—Subsecs. (b), (c). Pub. L. 93–380, § 517(a)(2), substituted "Assistant Secretary" for "Commissioner" wherever appearing.

Subsec. (d). Pub. L. 93–380, § 517(a)(1), added subsec. (d).

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment by Pub. L. 93–380 effective on and after sixtieth day after Aug. 21, 1974, see section 2(c) of Pub. L. 93–380, set out as a note under section 241b of this title.

TERMINATION OF ADVISORY COUNCILS

Advisory Councils in existence on January 5, 1973, to terminate not later than the expiration of the two-year period following January 5, 1973, unless, in the case of a Council established by the President or an officer of the Federal Government, such Council is renewed by appropriate action prior to the expiration of such two-year period, or in the case of a Council established by the Congress, its duration is otherwise provided by law, see sections 3(2) and 14 of Pub. L. 92–463, Oct. 6, 1972, 86 Stat. 770, 776, set out in the Appendix to Title 5, Government Organization and Employees.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 880b–11 of this title.

§ 1233e. Meetings of advisory councils; minutes: contents and certification.

Pub. L. 92–318, title III, § 301(a)(1), June 23, 1972, 86 Stat. 326, renumbered section 436 of Pub. L. 90–247 as section 446.

TERMINATION OF ADVISORY COUNCILS

Advisory Councils in existence on January 5, 1973, to terminate not later than the expiration of the two-year period following January 5, 1973, unless, in the case of a Council established by the President or an officer of the Federal Government, such Council is renewed by appropriate action prior to the expiration of such two-year period, or in the case of a Council established by the Congress, its duration is otherwise provided by law, see sections 3(2) and 14 of Pub. L. 92–463, Oct. 6, 1972, 86 Stat. 770, 776, set out in the Appendix to Title 5, Government Organization and Employees.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 880b–11 of this title.

§ 1233f. Auditing and review of advisory council activities; records.

* * * * *

(b) The Comptroller General of the United States, or any of his duly authorized representatives, shall have access, for the purpose of audit and examination, to any books, documents, papers, and records of each advisory council which is subject to the operation of this subchapter. (Pub. L. 90–247, title IV, § 447, formerly 437, as added Pub. L. 91–230, title IV, § 401(a)(10), Apr. 13, 1970, 84 Stat. 172, and renumbered Pub. L. 92–318, title III, § 301(a)(1), June 23, 1972, 86 Stat. 326, and amended Pub. L. 93–380, title V, § 517(b), Aug. 21, 1974, 88 Stat. 575.)

AMENDMENTS

1974—Subsec. (b). Pub. L. 93–380 substituted "each advisory council which is subject to the operation of this subchapter" for "each statutory advisory council".

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment by Pub. L. 93–380 effective on and after sixtieth day after Aug. 21, 1974, see section 2(c) of Pub. L. 93–380, set out as a note under section 241b of this title.

TERMINATION OF ADVISORY COUNCILS

Advisory Councils in existence on January 5, 1973, to terminate not later than the expiration of the two-year period following January 5, 1973, unless, in the case of a Council established by the President or an officer of the Federal Government, such Council is renewed by appropriate action prior to the expiration of such two-year period, or in the case of a Council established by the Congress, its duration is otherwise provided by law, see sections 3(2) and 14 of Pub. L. 92–463, Oct. 6, 1972, 86 Stat. 770, 776, set out in the Appendix to Title 5, Government Organization and Employees.

§ 1233g. Report by Commissioner of Education.

Pub. L. 92–318, title III, § 301(a)(1), June 23, 1972, 86 Stat. 326, renumbered section 438 of Pub. L. 90–247 as section 448.

TERMINATION OF ADVISORY COUNCILS

Advisory Councils in existence on January 5, 1973, to terminate not later than the expiration of the two-year period following January 5, 1973, unless, in the case of a Council established by the President or an officer of the Federal Government, such Council is renewed by appropriate action prior to the expiration of such two-year period, or in the case of a Council established by the Congress, its duration is otherwise provided by law, see sections 3(2) and 14 of Pub. L. 92–463, Oct. 6, 1972, 86 Stat. 770, 776, set out in the Appendix to Title 5, Government Organization and Employees.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 241*l*, 847a, 1009, 1209, 1221e–1, 1221g, 1244, 1532, 1615 of this title.

§ 1233h. Relation to other laws.

(a) No provision of any law establishing, authorizing the establishment of, or controlling the operation of, an advisory council which is not consistent with the provisions of this part shall apply to any advisory council to which this part applies.

(b) The provisions of subsections (e) and (f) of section 10 of the Federal Advisory Committee Act shall not apply to Presidential advisory councils (as

defined in section 1233 of this title). (Pub. L. 90–247, title IV, § 449, as added Pub. L. 93–380, title V, § 518 (a), Aug. 21, 1974, 88 Stat. 575.)

REFERENCES IN TEXT

Federal Advisory Committee Act, referred to in subsec. (b), is set out in Appendix I of Title 5, Government Organization and Employees.

EFFECTIVE DATE

Section 518(b) of Pub. L. 93–380 provided that: "The amendment made by subsection (a) [enacting this section] shall be effective upon enactment of this Act [Aug. 21, 1974]."

Chapter 32.—VOCATIONAL EDUCATION

SUBCHAPTER X.—BILINGUAL VOCATIONAL TRAINING [NEW]

Sec.
1393. Congressional findings.
1393a. General responsibilities of Commissioner and Secretary of Labor; consultations; regulations and guidelines: approval and consistency with other promulgations.
1393b. Authorization of appropriations.
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1393d. Uses of Federal funds.
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(a) Time and manner of submission; contents.
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1393f. Application approval by Commissioner.
(a) Original applications; conditions.
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CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in sections 1135b–2, 1135b–4, 1135c, 1135c–1, 1205, 1232a of this title.

SUBCHAPTER I.—GENERAL PROVISIONS

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in title 40 App., section 214.

§ 1242. Authorization of appropriations.

* * * * *

(b) There are also authorized to be appropriated $40,000,000 each for the fiscal years ending June 30, 1969, and June 30, 1970, $50,000,000 for the fiscal year ending June 30, 1971, and $60,000,000 for the fiscal year ending June 30, 1972, and for the succeeding fiscal years ending prior to July 1, 1975, for the purposes of section 1262(a)(4)(A) of this title. Nothing in this subsection shall be construed to affect the availability for such purposes, of appropriations made pursuant to subsection (a) of this section.

(c) There are authorized to be appropriated $17,500,000 for the fiscal year ending June 30, 1975, for the purpose of carrying out section 1262(a)(4)(C) of this title. Nothing in this subsection shall be construed to affect the availability for such purpose of appropriations made pursuant to subsection (a) of this section.

(d) There are further authorized to be appropriated for each fiscal year such sums as may be necessary to pay the cost of the administration and development of State plans, the activities of advisory councils created under this chapter, and the evaluation and dissemination activities required pursuant to this chapter. (As amended Pub. L. 92–318, title II, § 201, June 23, 1972, 86 Stat. 325; Pub. L. 93–380, title VIII, § 841(a)(1), Aug. 21, 1974, 88 Stat. 606.)

AMENDMENTS

1974—Subsec. (c). Pub. L. 93–380 added subsec. (c). Former subsec. (c) redesignated (d).

Subsec. (d). Pub. L. 93–380 redesignated former subsec. (c) as (d).

1972—Subsec. (b). Pub. L. 92–318 inserted after "fiscal year ending June 30, 1972," the words "and for the succeeding fiscal years ending prior to July 1, 1975,".

EFFECTIVE DATE OF 1974 AMENDMENT

Section 841(c) of Pub. L. 93–380 provided that: "The amendments made by this section [enacting sections 1248(14), (15), 1262(a)(4)(C), and 1393 to 1393f and amending sections 351d(b)(4), 1242, 1244(a)(1)(D), (b)(1)(A)(vii), (d), and 1262(b) of this title] shall be effective on and after July 1, 1974."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1243, 1244, 1261–1264 of this title.

§ 1244. National and State Advisory Councils.

(a) National Advisory Council on Vocational Education; establishment; membership; termination; duties; reports; technical assistance.

(1) There is hereby created a National Advisory Council on Vocational Education (hereinafter referred to as the "National Council") consisting of twenty-one members appointed by the President, without regard to the civil service laws, for terms of three years, except that (i) in the case of the initial members, seven shall be appointed for terms of one year each and seven shall be appointed for terms of two years each, and (ii) appointments to fill vacancies shall be only for such terms as remain unexpired. The Council shall include persons—

* * * * *

(D) experienced in the education and training of handicapped persons and of persons of limited English-speaking ability (as defined in section 880b–1(a) of this title),

* * * * *

The National Council shall meet at the call of the Chairman, who shall be selected by the President, but not less than four times a year. Subject to section 1233g(b) of this title, the National Council shall continue to exist until July 1, 1976.

(2) The National Council shall—

(A) advise the Commissioner concerning the administration of, preparation of general regulations for, and operation of, vocational education programs supported with assistance under this chapter, and under part B of title X of the Higher Education Act of 1965;

(B) review the administration and operation of vocational education programs under this chapter, and under part B of title X of the Higher Education Act of 1965 including the effectiveness of such programs in meeting the purposes for which they are established and operated, make recommendations with respect thereto, and make annual reports of its findings and recommendations (including recommendations for changes in the provisions of this chapter) to the Secretary for transmittal to the Congress; and

(C) conduct independent evaluations of programs carried out under this chapter, and under

part B of title X of the Higher Education Act of 1965, and publish and distribute the results thereof.

* * * * *

(4) The Council is authorized, without regard to the civil service laws, to engage such technical assistance as may be required to carry out its functions, and to this end there are hereby authorized to be appropriated for the fiscal year ending June 30, 1969, $100,000, and for the fiscal year ending June 30, 1970, and each of the five succeeding fiscal years, $150,000.

* * * * *

(6) The National Council may accept gifts or grants and may accept transfer of funds from other departments or agencies.

(b) State Advisory Councils.

(1) Any State which desires to receive a grant under this chapter for any fiscal year shall establish a State advisory council, which shall be appointed by the Governor or, in the case of States in which the members of the State board are elected (including election by the State legislature), by such board, and which shall—

(A) include as members a person or persons—

* * * * *

(vii) representing school systems with large concentrations of academically, socially, economically, and culturally disadvantaged students (and may include, where appropriate, students who are persons of limited English-speaking ability (as defined in section 880b–1 (a) of this title)),

* * * * *

(c) Funds to State Advisory Councils for occupational education programs.

State advisory councils also shall perform with respect to the programs carried out under part B of title X of the Higher Education Act of 1965 functions identical with or analogous to those assigned under this chapter, and the Commissioner shall assure that adequate funds are made available to such Councils from funds appropriated to carry out part B of that title (without regard to whether such funds have been allotted to States) to enable them to perform such functions.

(d) Payments to State Advisory Councils; limitations.

From the sums appropriated pursuant to section 1242(d) of this title for any fiscal year, the Commissioner is authorized (in accordance with regulations) to pay to each State Advisory Council an amount equal to the reasonable amounts expended by it in carrying out its functions under this chapter in such fiscal year, except that the amount available for such purpose shall be equal to 1 per centum of the State's allotment under section 1243 of this title, but such amount shall not exceed $150,000 and shall not be less than $50,000. (As amended Pub. L. 92–318, title II, § 209, title V, § 509(b), June 23, 1972, 86 Stat. 326, 353; Pub. L. 93–380, title VIII, §§ 841(a) (1)–(3), 845(g), Aug. 21, 1974, 88 Stat. 606, 607, 612; Pub. L. 93–567, title I, § 108, Dec. 31, 1974, 88 Stat. 1849.)

REFERENCES IN TEXT

The civil service laws, referred to in subsec. (a)(1), are set forth in Title 5, Government Organization and Employees. See, particularly, section 3301 et seq. of that Title.

Part B of title X of the Higher Education Act of 1965, referred to in subsecs. (a)(2), (c), is classified to section 1135b et seq. of this title.

CODIFICATION

Amendment of subsec. (a) by section 845(g) of Pub. L. 93–380 providing for continued existence of the National Council until July 1, 1976, with direction for addition of new sentence at end of subsec. (a), without any designation of a paragraph, has been inserted as the end sentence of par. (1) as probably conforming with the intent of Congress.

AMENDMENTS

1974—Subsec. (a)(1)(D). Pub. L. 93–380, § 841(a)(2), provided for inclusion in the National Council of persons of limited English-speaking ability.

Subsec. (a)(1), foll. (G). Pub. L. 93–380, § 845(g), continued existence of National Council until July 1, 1976.

Subsec. (a)(6). Pub. L. 93–567 added par. (6).

Subsec. (b)(1)(A)(vii). Pub. L. 93–380, § 841(a)(3), authorized inclusion in State advisory councils, where appropriate, of students of limited English-speaking ability.

Subsec. (d). Pub. L. 93–380, § 841(a)(1), substituted reference to section "1242(d)" for "1242(c)" of this title.

1972—Subsec. (a)(2). Pub. L. 92–318, § 509(b)(1), inserted following "under this chapter" the words ", and under part B of title X of the Higher Education Act of 1965,".

Subsec. (a)(4). Pub. L. 92–318, § 209, substituted "five" for "two" succeeding fiscal years.

Subsec. (c). Pub. L. 92–318, § 509(b)(2), added subsec. (c). Former subsec. (c) redesignated (d).

Subsec. (d). Pub. L. 92–318, § 509(b)(2), redesignated former subsec. (c) as (d).

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment of subsecs. (a)(1)(D), (b)(1)(A)(vii), and (d) by Pub. L. 93–380 effective on and after July 1, 1974, see section 841(c) of Pub. L. 93–380, set out as a note under section 1242 of this title.

Amendment of subsec. (a), following subpar. (G) by Pub. L. 93–380 effective on and after sixtieth day after Aug. 21, 1974, see section 2(c) of Pub. L. 93–380, set out as a note under section 241b of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1263 of this title.

§ 1248. Definitions.

For the purposes of this chapter—

(1) The term "vocational education" means vocational or technical training or retraining which is given in schools or classes (including field or laboratory work and remedial or related academic and technical instruction incident thereto) under public supervision and control or under contract with a State board or local educational agency and is conducted as part of a program designed to prepare individuals for gainful employment (including volunteer firemen) as semiskilled or skilled workers or technicians or subprofessionals in recognized occupations and in new and emerging occupations or to prepare individuals for enrollment in advanced technical education programs, but excluding any program to prepare individuals for employment in occupations which the Commissioner determines, and specifies by regulation, to be generally considered professional or which requires a baccalaureate or higher degree; and such term includes vocational guidance and counseling (individually or through group instruction)

in connection with such training or for the purpose of facilitating occupational choices; instruction related to the occupation or occupations for which the students are in training or instruction necessary for students to benefit from such training; job placement; the training of persons engaged as, or preparing to become, teachers in a vocational education program or preparing such teachers to meet special education needs of handicapped students; teachers, supervisors, or directors of such teachers while in such a training program; travel of students and vocational education personnel while engaged in a training program; and the acquisition, maintenance, and repair of instructional supplies, teaching aids, and equipment, but such term does not include the construction, acquisition, or initial equipment of buildings or the acquisition or rental of land. Such term includes industrial arts education programs in cases where the Commissioner determines by regulation that such programs will acomplish or facilitate one or more of the purposes of the first sentence of this paragraph.

* * * * *

(14) The term "vocational training" means training or retraining which is conducted as part of a program designed to prepare individuals for gainful employment as semiskilled or skilled workers or technicians or subprofessionals in recognized occupations and in new end emerging occupations, but excluding any program to prepare individuals for employment in occupations which the Commissioner determines, and specifies by regulation, to be generally considered professional which requires a baccalaureate or higher degree; such term includes guidance and counseling (either individually or through group instruction) in connection with such training or for the purpose of facilitating occupational choices; instruction related to the occupation or occupations to which the students are in training or instruction necessary for students to benefit from such training; the training of persons engaged as, or preparing to become, instructors in a vocational training program; travel of students and vocational training personnel while engaged in a training program; and the acquisition, maintenance, and repair of instructional supplies, aids, and equipment, but such term does not include the construction, acquisition or initial equipment of buildings or the acquisition or rental of land.

(15) The term "postsecondary educational institution" means a nonprofit institution legally authorized to provide postsecondary education within a State for persons sixteen years of age or older, who have graduated from or left elementary or secondary school. (As amended Pub. L. 92–318, title II, § 202, June 23, 1972, 86 Stat. 325; Pub. L. 93–380, title VIII, § 841(a)(4), Aug. 21, 1974, 88 Stat. 607.)

AMENDMENTS

1974—Pars. (14), (15). Pub. L. 93–380 added pars. (14) and (15).

1972—Par. (1). Pub. L. 92–318 extended term "vocational education" to include arts education programs in cases where the Commissioner determines by regulation that such programs will accomplish or facilitate one or more of the described purposes and authorized preparation of individuals for employment as volunteer firemen, respectively.

EFFECTIVE DATE OF 1974 AMENDMENT

Pars. (14) and (15) effective on and after July 1, 1974, see section 841(c) of Pub. L. 93–380, set out as a note under section 1242 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1262, 1322 of this title; title 42 section 2753.

SUBCHAPTER II.—STATE VOCATIONAL EDUCATION PROGRAMS

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 1393e, 1393f of this title.

§ 1262. Uses of federal funds.

(a) Authorized purposes for grants.

Grants to States under this subchapter may be used, in accordance with State plans approved pursuant to section 1263 of this title, for the following purposes:

* * * * *

(4)(A) * * *

* * * * *

(C) vocational education for students of limited English-speaking ability (as defined in section 880b–1(a) of this title) carried out in coordination with bilingual education programs under title VII of the Elementary and Secondary Education Act of 1965 and bilingual adult education programs under section 1205(a)(11) of this title;

* * * * *

(b) Additional authorized uses.

In addition to the uses of funds specified in subsection (a) of this section, funds appropriated pursuant to section 1242(d) of this title, and paid to a State for the following purpose by the Commissioner may be used for—

* * * * *

(As amended Pub. L. 93–380, title VIII, § 841(a)(1), (5), Aug. 21, 1974, 88 Stat. 606, 607.)

REFERENCES IN TEXT

Title VII of Elementary and Secondary Education Act of 1965, referred to in subsec. (a)(4)(C), is classified to section 880b et seq. of this title.

AMENDMENTS

1974—Subsec. (a)(4)(C). Pub. L. 93–380, § 841(a)(5), added subpar. (C).

Subsec. (b). Pub. L. 93–380, § 841(a)(1), substituted reference to section "1242(d)" for "1242(c)" of this title.

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment by Pub. L. 93–380 effective on and after July 1, 1974, see section 841(c) of Pub. L. 93–380, set out as a note under section 1242 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 880b–1, 1242, 1413 of this title.

SUBCHAPTER III.—RESEARCH AND TRAINING IN VOCATIONAL EDUCATION

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in section 1135c of this title.

SUBCHAPTER IV.—EXEMPLARY PROGRAMS AND PROJECTS

§ 1302. Authorization of grants and contracts.

(a) Authorization of appropriations.

There are hereby authorized to be appropriated $15,000,000 for the fiscal year ending June 30, 1969, $57,500,000 for the fiscal year ending June 30, 1970, and $75,000,000 for each of the five succeeding fiscal years to enable the Commissioner to carry out the provisions of this subchapter.

* * * * *

(As amended Pub. L. 92–318, title II, § 203, June 23, 1972, 86 Stat. 325.)

AMENDMENTS

1972—Subsec. (a). Pub. L. 92–318 substituted "five" for "two" succeeding years.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1303, 1304 of this title.

SUBCHAPTER V.—RESIDENTIAL VOCATIONAL EDUCATION

§ 1321. Demonstration schools.

* * * * *

(b) There are authorized to be appropriated for the purpose of this section $25,000,000 for the fiscal year ending June 30, 1969, $30,000,000 for the fiscal year ending June 30, 1970, and $35,000,000 each for the fiscal year ending June 30, 1971, and for each of the succeeding fiscal years ending prior to July 1, 1975. (As amended Pub. L. 92–318, title II, § 204(a), June 23, 1972, 86 Stat. 326.)

AMENDMENTS

1972—Subsec. (b). Pub. L. 92–318 substituted "each of the succeeding fiscal years ending prior to July 1, 1975" for "the succeeding fiscal year".

§ 1322. State programs.

(a) Authorization of appropriations; allocation of funds.

(1) There are hereby authorized to be appropriated $15,000,000 for the fiscal year ending June 30, 1969, and for each of the succeeding fiscal years ending prior to July 1, 1975, for grants to the States to provide residential vocational education facilities in accordance with the provisions of this section.

* * * * *

(As amended Pub. L. 92–318, title II, § 204(b), June 23, 1972, 86 Stat. 326.)

AMENDMENTS

1972—Subsec. (a)(1). Pub. L. 92–318 substituted "July 1, 1975" for "July 1, 1972".

§ 1323. Grants to reduce borrowing costs for schools and dormitories.

* * * * *

(d) Authorization of appropriations.

* * * * *

(2) Contracts for annual grants under this section shall not be entered into for an aggregate amount greater than is authorized in appropriation Acts; and in any event the total amount of annual grants which may be paid in any year pursuant to contracts entered into under this section shall not exceed $5,000,000, which amount shall be increased by $5,000,000 on July 1, 1970, and on July 1 of each of the four succeeding fiscal years. (As amended Pub. L. 92–318, title II, § 204(c), June 23, 1972, 86 Stat. 326.)

AMENDMENTS

1972—Subsec. (d)(2). Pub. L. 92–318 substituted "July 1 of each of the four succeeding fiscal years" for "July 1, 1971".

SUBCHAPTER VI.—CONSUMER AND HOMEMAKING EDUCATION

§ 1341. Authorization of program.

(a) Authorization of appropriations; allocation of funds.

(1) There are hereby authorized to be appropriated for the fiscal year ending June 30, 1970, $25,000,000, for the fiscal year ending June 30, 1971, $35,000,000, and for each of the succeeding fiscal years ending prior to July 1, 1975, $50,000,000, for the purposes of this subchapter. From the sums appropriated pursuant to this paragraph for each fiscal year, the Commissioner shall allot to each State an amount which shall be computed in the same manner as allotments to States under section 1243 of this title except that for the purposes of this section, there shall be no reservation of 10 per centum of such sums for research and training programs and 100 per centum of the amount appropriated pursuant to this section shall be allotted among the States.

* * * * *

(c) Percentage limitation on uses of allocated funds.

From a State's allotment under this section for the fiscal year ending June 30, 1970, and for each fiscal year thereafter, the Commissioner shall pay to such State an amount equal to 50 per centum of the amount expended for the purposes set forth in subsection (b) of this section, except that, for the fiscal year ending June 30, 1970, and the five succeeding fiscal years, the Commissioner shall pay an amount equal to 90 per centum of the amount used in areas described in subsection (d) of this section. No State shall receive payments under this section for any fiscal year in excess of its allotment under subsection (a) of this section for such fiscal year.

(d) Programs for economically depressed areas.

(1) At least one-third of the Federal funds made available under this section shall be used in economically depressed areas or areas with high rates of unemployment for programs designed to assist consumers and to help improve home environments and the quality of family life.

(2) From funds made available under this section, special consideration shall be given to special consumer and homemaking programs for persons aged sixty or older who are in need of services provided by such programs, as determined by the Commissioner. Such programs shall be designed to assist such persons to live independently in their own homes and to alleviate the adverse effects of loneliness and isolation. (As amended Pub. L. 92–318, title II, § 205, June 23, 1972, 86 Stat. 326; Pub. L. 94–135, title II, § 204, Nov. 28, 1975, 89 Stat. 727.)

AMENDMENTS

1975—Subsec. (d). Pub. L. 94–135 designated existing provisions as par. (1) and added par. (2).

1972—Subsec. (a)(1). Pub. L. 92–318, § 205(a), substituted "each of the succeeding fiscal years ending prior to July 1, 1975" for "the fiscal year ending June 30, 1972".

Subsec. (c). Pub. L. 92–318, § 205(b), substituted "five" for "two" succeeding fiscal years.

SUBCHAPTER VII.—COOPERATIVE VOCATIONAL EDUCATION PROGRAMS

§ 1352. Authorizations and allotments.

(a) There is authorized to be appropriated for the fiscal year ending June 30, 1969, $20,000,000, for the fiscal year ending June 30, 1970, $35,000,000, for the fiscal year ending June 30, 1971, $50,000,000, and for each of the succeeding fiscal years ending prior to July 1, 1975, $75,000,000, for making grants to the States for programs of vocational education designed to prepare students for employment through cooperative work-study arrangements.

* * * * *

(As amended Pub. L. 92–318, title II, § 206, June 23, 1972, 86 Stat. 326.)

AMENDMENTS

1972—Subsec. (a). Pub. L. 92–318 substituted "each of the succeeding fiscal years ending prior to July 1, 1975" for "the fiscal year ending June 30, 1972".

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1354 of this title.

SUBCHAPTER VIII.—WORK-STUDY PROGRAMS FOR VOCATIONAL EDUCATION STUDENTS

§ 1371. Authorization of appropriation and allotment.

(a) There are hereby authorized to be appropriated $35,000,000 for each of the fiscal years ending June 30, 1969, and June 30, 1970, $45,000,000 for the fiscal year ending June 30, 1971, and $55,000,000 for the fiscal year ending June 30, 1972, and for each of the succeeding fiscal years ending prior to July 1, 1975, for the purposes of this subchapter.

* * * * *

(As amended Pub. L. 92–318, title II, § 207, June 23, 1972, 86 Stat. 326.)

AMENDMENTS

1972—Subsec. (a). Pub. L. 92–318 inserted "and for each of the succeeding fiscal years ending prior to July 1, 1975," after "June 30, 1972,".

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1372, 1373 of this title.

SUBCHAPTER IX.—CURRICULUM DEVELOPMENT IN VOCATIONAL AND TECHNICAL EDUCATION

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in section 1135c of this title.

§ 1391. Authorization of program.

* * * * *

(b) Authorization of appropriations.

There are authorized to be appropriated $7,000,000 for the fiscal year ending June 30, 1969, and $10,000,000 for each of the succeeding fiscal years ending prior to July 1, 1975, for the purposes set forth in this section.

* * * * *

(Pub. L. 88–210, title I, § 189, formerly 191, as added Pub. L. 90–576, title I, § 101(b), Oct. 16, 1968, 81 Stat. 1090, and amended Pub. L. 91–230, title VII, § 707, Apr. 13, 1970, 84 Stat. 189; Pub. L. 92–318, title II, § 208, June 23, 1972, 86 Stat. 326; renumbered Pub. L. 93–380, title VIII, § 841(a)(6), Aug. 21, 1974, 88 Stat. 607.)

AMENDMENTS

1972—Subsec. (b). Pub. L. 92–318 substituted "July 1, 1975" for "July 1, 1972".

SUBCHAPTER X—BILINGUAL VOCATIONAL TRAINING [NEW]

CODIFICATION

This subchapter, in the original was part J of Title I of Pub. L. 88–210, as added by Pub. L. 93–380, title VIII, § 841(a)(7), Aug. 21, 1974, 88 Stat. 607.

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in section 880b–1 of this title.

§ 1393. Congressional findings.

The Congress hereby finds that one of the most acute problems in the United States is that which involves millions of citizens, both children and adults, whose efforts to profit from vocational training is severely restricted by their limited English-speaking ability because they come from environments where the dominant language is other than English; that such persons are therefore unable to help to fill the critical need for more and better trained personnel in vital occupational categories; and that such persons are unable to make their maximum contribution to the Nation's economy and must, in fact, suffer the hardships of unemployment or underemployment. The Congress further finds that there is a critical shortage of instructors possessing both the job knowledge and skills and the dual language capabilities required for adequate vocational instruction of such language-handicapped persons, and a corresponding shortage of instructional materials and of instructional methods and techniques suitable for such instruction. (Pub. L. 88–210, title, I, § 191, as added Pub. L. 93–380, title VIII, § 841(a)(7), Aug. 21, 1974, 88 Stat. 607.)

EFFECTIVE DATE

Section effective on and after July 1, 1974, see section 841(c) of Pub. L. 93–380, set out as a note under section 1242 of this title.

§ 1393a. General responsibilities of Commissioner and Secretary of Labor; consultations; regulations and guidelines: approval and consistency with other promulgations.

(a) The Commissioner and the Secretary of Labor together shall—

(1) develop and disseminate accurate information on the status of bilingual vocational training in all parts of the United States;

(2) evaluate the impact of such bilingual vocational training on the shortages of well-trained personnel, the unemployment or underemployment of persons with limited English-speaking ability, and the ability of such persons to contribute fully to the economy of the United States; and

(3) report their findings annually to the President and the Congress.

(b) The Commissioner shall consult with the Secretary of Labor with respect to the administration of this subchapter. Regulations and guidelines promulgated by the Commissioner to carry out this subchapter shall be consistent with those promulgated by the Secretary of Labor pursuant to section 871 of Title 29 and shall be approved by the Secretary of Labor before issuance. (Pub. L. 88–210, title I, § 192, as added Pub. L. 93–380, title VIII, § 841(a)(7), Aug. 21, 1974, 88 Stat. 608.)

EFFECTIVE DATE

Section effective on and after July 1, 1974, see section 841(c) of Pub. L. 93–380, set out as a note under section 1242 of this title.

§ 1393b. Authorization of appropriations.

There are authorized to be appropriated $17,500,000 for the fiscal year ending June 30, 1975, to carry out the provisions of this subchapter. (Pub. L. 88–210, title I, § 193, as added Pub. L. 93–380, title VIII, § 841(a)(7), Aug. 21, 1974, 88 Stat. 608.)

EFFECTIVE DATE

Section effective on and after July 1, 1974, see section 841(c) of Pub. L. 93–380, set out as a note under section 1242 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1393c of this title.

§ 1393c. Authorization of grants and contracts; payments.

(a) From the sums made available for grants under this subchapter pursuant to section 1393b of this title, the Commissioner is authorized to make grants to and to enter into contracts with appropriate State agencies, local educational agencies, postsecondary educational institutions, private nonprofit vocational training institutions, and to other nonprofit organizations especially created to serve a group whose language as normally used is other than English in supplying training in recognized occupations and new and emerging occupations, and to enter into contracts with private for-profit agencies and organizations, to assist them in conducting bilingual vocational training programs for persons of all ages in all communities of the United States which are designed to insure that vocational training programs are available to all individuals who desire and need such bilingual vocational training.

(b) The Secretary shall pay to each applicant which has an application approved under this subchapter an amount equal to the total sums expended by the applicant for the purposes set forth in that application. (Pub. L. 88–210, title I, § 194, as added Pub. L. 93–380, title VIII, § 841(a)(7), Aug. 21, 1974, 88 Stat. 608.)

EFFECTIVE DATE

Section effective on and after July 1, 1974, see section 841(c) of Pub. L. 93–380, set out as a note under section 1242 of this title.

§ 1393d. Uses of Federal funds.

Grants and contracts under this subchapter may be used, in accordance with applications approved under section 1393f of this title, for—

(1) bilingual vocational training programs for persons who have completed or left elementary or secondary school and who are available for training by a postsecondary educational institution;

(2) bilingual vocational training programs for persons who have already entered the labor market and who desire or need training or retraining to achieve year-round employment, adjust to changing manpower needs, expand their range of skills, or advance in employment; and

(3) training allowances for participants in bilingual vocational training programs subject to the same conditions and limitations as are set forth in section 821 of Title 29.

(Pub. L. 88–210, title I, § 195, as added Pub. L. 93–380, title VIII, § 841(a)(7), Aug. 21, 1974, 88 Stat. 608.)

EFFECTIVE DATE

Section effective on and after July 1, 1974, see section 841(c) of Pub. L. 93–380, set out as a note under section 1242 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1393e of this title.

§ 1393e. Applications.

(a) Time and manner of submission; contents.

A grant or contract for assistance under this subchapter may be made only upon application to the Commissioner at such time, in such manner, and containing or accompanied by such information as the Commissioner deems necessary. Each such application shall—

(1) provide that the activities and services for which assistance under this subchapter is sought will be administered by or under the supervision of the applicant;

(2) set forth a program for carrying out the purposes described in section 1393d of this title; and

(3) set forth a program of such size, scope, and design as will make a substantial contribution toward carrying out the purposes of this subchapter.

(b) Submission to State board or agency for comment; inclusion of comment.

No grant or contract may be made under this subchapter directly to a local educational agency or a postsecondary educational institution or a private vocational training institution or any other eligible agency or organization unless that agency, institution, or organization has submitted the application to the State board established under subchapter II of this chapter, or in the case of a State that does not have such a board, the similar State agency, for comment and includes the comment of that board or agency with the application. (Pub. L. 88–210, title I, § 196, as added Pub. L. 93–380, title VIII, § 841(a)(7), Aug. 21, 1974, 88 Stat. 609.)

EFFECTIVE DATE

Section effective on and after July 1, 1974, see section 841(c) of Pub. L. 93–380, set out as a note under section 1242 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1393f of this title.

§ 1393f. Application approval by Commissioner.

(a) Original applications; conditions.

The Commissioner may approve an application for assistance under this subchapter only if—

(1) the application meets the requirements set forth in subsection (a) of section 1393e of this title;

(2) in the case of an application submitted for assistance under this subchapter to an agency, institution, or organization other than the State board established under subchapter II of this chapter, the requirement of subsection (b) of section 1393e of this title is met; and

(3) in the case of an application submitted for assistance under this subchapter, the Commissioner determines that the program is consistent with criteria established by him, where feasible, after consultation with the State board established under subchapter II of this chapter for achieving equitable distribution of assistance under this subchapter within that State.

(b) Amendments to applications.

An amendment to an application shall, except as the Secretary may otherwise provide, be subject to approval in the same manner as the original application. (Pub. L. 88–210, title I, § 197, as added Pub. L. 93–380, title VIII, § 841(a)(7), Aug. 21, 1974, 88 Stat. 609.)

EFFECTIVE DATE

Section effective on and after July 1, 1974, see section 841(c) of Pub. L. 93–380, set out as a note under section 1242 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1393d of this title.

Chapter 33.—EDUCATION OF THE HANDICAPPED

SUBCHAPTER I—GENERAL PROVISIONS

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1405. Employment of handicapped individuals [New].
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1415. Procedural safeguards [New].
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(b) Application.
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(e) Authorization of appropriations.
1420. Payments [New].

SUBCHAPTER III.—CENTERS AND SERVICES TO MEET SPECIAL NEEDS OF THE HANDICAPPED

Sec.
1424a. Regional education programs [New].
(a) Grant and contract authority; development and operation of vocational, technical, postsecondary, or adult education programs.
(b) Priority of programs.
(c) "Handicapped persons" defined.

SUBCHAPTER I.—GENERAL PROVISIONS

§ 1401. Definitions.

As used in this chapter—

(1) The term "handicapped children" means mentally retarded, hard of hearing, deaf, speech impaired, visually handicapped, seriously emotionally disturbed, orthopedically impaired, or other health impaired children, or children with specific learning disabilities, who by reason thereof require special education and related services.

* * * * *

(5) The term "equipment" includes machinery, utilities, and built-in equipment and any necessary enclosures or structures to house them, and includes all other items necessary for the functioning of a particular facility as a facility for the provision of educational services, including items such as instructional equipment and necessary furniture, printed, published, and audio-visual instructional materials, telecommunications, sensory, and other technological aids and devices, and books, periodicals, documents, and other related materials.

* * * * *

(15) The term "children with specific learning disabilities" means those children who have a disorder in one or more of the basic psychological processes involved in understanding or in using language, spoken or written, which disorder may manifest itself in imperfect ability to listen, think, speak, read, write, spell, or do mathematical calculations. Such disorders include such conditions as perceptual handicaps, brain injury, minimal brain dysfunction, dyslexia, and developmental aphasia. Such term does not include children who have learning problems which are primarily the result of visual, hearing, or motor handicaps, of mental retardation, of emotional disturbance, or of environmental, cultural, or econmic disadvantage.

(16) The term "special education" means specially designed instruction, at no cost to parents or guardians, to meet the unique needs of a handicapped child, including classroom instruction, instruction in physical education, home instruction, and instruction in hospitals and institutions.

(17) The term "related services" means transportation, and such developmental, corrective, and other supportive services (including speech pathology and audiology, psychological services, physical and occupational therapy, recreation, and medical and counseling services, except that such medical services shall be for diagnostic and evaluation purposes only) as may be required to assist a handicapped child to benefit from special education, and includes the early identification and assessment of handicapping conditions in children.

(18) The term "free appropriate public education" means special education and related services which (A) have been provided at public expense, under public supervision and direction, and without charge, (B) meet the standards of the State educational agency, (C) include an appropriate preschool, elementary, or secondary school education in the State involved, and (D) are provided in conformity with the individualized education program required under section 1414(a)(5) of this title.

(19) The term "individualized education program" means a written statement for each handicapped child developed in any meeting by a representative of the local educational agency or an intermediate educational unit who shall be qualified to provide, or supervise the provision of, specially designed instruction to meet the unique needs of handicapped children, the teacher, the parents or guardian of such child, and, whenever appropriate, such child, which statement shall include (A) a statement of the present levels of educational performance of such child, (B) a statement of annual goals, including short-term instructional objectives, (C) a statement of the specific educational services to be provided to such child, and the extent to which such child will be able to participate in regular educational programs, (D) the projected date for initiation and anticipated duration of such services, and (E) appropriate objective criteria and evaluation procedures and schedules for determining, on at least an annual basis, whether instructional objectives are being achieved.

(20) The term "excess costs" means those costs which are in excess of the average annual per student expenditure in a local educational agency during the preceding school year for an elementary or secondary school student, as may be appropriate, and which shall be computed after deducting (A) amounts received under this subchapter or under title I or title VII of the Elementary and Secondary Education Act of 1965, and (B) any State or local funds expended for programs which would qualify for assistance under this subchapter or under such titles.

(21) The term "native language" has the meaning given that term by section 880b–1(a)(2) of this title.

(22) The term "intermediate educational unit" means any public authority, other than a local educational agency, which is under the general supervision of a State educational agency, which is established by State law for the purpose of providing free public education on a regional basis, and which provides special education and related services to handicapped children within that State. (As amended Pub. L. 94–142, § 4(a), Nov. 29, 1975, 89 Stat. 775.)

TEXT OF SECTION EFFECTIVE THROUGH SEPT. 30, 1977

Text of pars. (1), (5), and (15) to (22) of this section, as set out above, reflect amendments of this section by Pub. L. 94–142 which are not effective until Oct. 1, 1977. Until Oct. 1, 1977, the text of this section, consisting of pars. (1) through (15) as originally enacted by Pub. L. 91–230, will continue to apply.

REFERENCES IN TEXT

Titles I and VII of the Elementary and Secondary Education Act of 1965, referred to in par. (20), are classified, respectively, to sections 241a et seq. and 880b et seq. of this title.

AMENDMENTS

1975—Par. (1). Pub. L. 94–142, § 4(a)(1), substituted "orthopedically impaired" for "crippled" and inserted reference to children with specific learning disabilities.

Par. (5). Pub. L. 94–142, § 4(a)(2), inserted reference to telecommunications, sensory, and other technological aids and devices.

Par. (15). Pub. L. 94–142, § 4(a)(3), added children with learning problems which are primarily the result of cultural or economic disadvantage to the enumeration of children not to be included within the term "children with specific learning disabilities".

Pars. (16)–(22). Pub. L. 94–142, § 4(a)(4), added pars. (16) to (22).

EFFECTIVE DATE OF 1975 AMENDMENT

Amendment by Pub. L. 94–142 effective Oct. 1, 1977, see section 8(c) of Pub. L. 94–142, set out as a note under section 1411 of this title.

SHORT TITLE OF 1975 AMENDMENT

Section 1 of Pub. L. 94–142 provided: "That this Act [enacting sections 1405, 1406, 1415, 1416, 1417, 1418, 1419, and 1420 of this title, amending this section and notes set out under this section and sections 1232, 1411, 1411 notes, 1412, 1412 note, 1413, 1413 note, 1414, and 1453 of this title, and enacting provisions set out as notes under this section and section 1411 of this title] may be cited as the 'Education for All Handicapped Children Act of 1975'."

SHORT TITLE; CONGRESSIONAL FINDINGS; CONGRESSIONAL DECLARATION OF PURPOSE

Section 1 of Pub. L. 91–230, as amended by Pub. L. 94–142, § 3(a), provided that:

"(a) This title [enacting this chapter] may be cited as the 'Education of the Handicapped Act'.

"(b) The Congress finds that—

"(1) there are more than eight million handicapped children in the United States today;

"(2) the special educational needs of such children are not being fully met;

"(3) more than half of the handicapped children in the United States do not receive appropriate educational services which would enable them to have full equality of opportunity;

"(4) one million of the handicapped children in the United States are excluded entirely from the public school system and will not go through the educational process with their peers;

"(5) there are many handicapped children throughout the United States participating in regular school programs whose handicaps prevent them from having a successful educational experience because their handicaps are undetected;

"(6) because of the lack of adequate services within the public school system, families are often forced to find services outside the public school system, often at great distance from their residence and at their own expense;

"(7) developments in the training of teachers and in diagnostic and instructional procedures and methods have advanced to the point that, given appropriate funding, State and local educational agencies can and will provide effective special education and related services to meet the needs of handicapped children;

"(8) State and local educational agencies have a responsibility to provide education for all handicapped children, but present financial resources are inadequate to meet the special educational needs of handicapped children; and

"(9) it is in the national interest that the Federal Government assist State and local efforts to provide programs to meet the educational needs of handicapped children in order to assure equal protection of the law.

"(c) It is the purpose of this Act [this chapter] to assure that all handicapped children have available to them, within the time periods specified in section 612

(2)(B) [section 1412(2)(B) of this title], a free appropriate public education which emphasizes special education and related services designed to meet their unique needs, to assure that the rights of handicapped children and their parents or guardians are protected, to assist States and localities to provide for the education of all handicapped children, and to assess an assure the effectiveness of efforts to educate handicapped children."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 238 of this title; title 42 section 2928b.

§ 1402. Bureau for education and training of the handicapped; Deputy Commissioner: appointment and compensation; Associate Deputy Commissioner and other assistants to Deputy Commissioner.

(a) There shall be, within the Office of Education, a bureau for the education and training of the handicapped which shall be the principal agency in the Office of Education for administering and carrying out programs and projects relating to the education and training of the handicapped, including programs and projects for the training of teachers of the handicapped and for research in such education and training.

(b)(1) The Bureau established under subsection (a) of this section shall be headed by a Deputy Commissioner of Education who shall be appointed by the Commissioner, who shall report directly to the Commissioner, be compensated at the rate specified for, and placed in, grade 18 of the General Schedule set forth in section 5332 of Title 5.

(2) In addition to such Deputy Commissioner, there shall be placed in such Bureau five positions for persons to assist the Deputy Commissioner in carrying out his duties, including the position of Associate Deputy Commissioner, and such positions shall be placed in grade 16 of the General Schedule set forth in section 5332 of Title 5. (As amended Pub. L. 93–380, title VI, § 612(a), Aug. 21, 1974, 88 Stat. 579.)

AMENDMENTS

1974—Pub. L. 93–380 designated existing provisions as subsec. (a) and added subsec. (b).

EFFECTIVE DATE OF 1974 AMENDMENT

Section 612(b)(2) of Pub. L. 93–380 provided that: "The amendments made by subsection (a) [to this section] shall become effective upon the enactment of this Act [Aug. 21, 1974]."

SHORT TITLE

Section 611 of Pub. L. 93–380 provided that: "This title [enacting sections 1403(c), 1413(a)(12), (13), and 1424a and amending sections 1402, 1403(b), 1411–1413, 1426, 1436, 1444, 1452(b)(3)–(5), 1454, and 1461(c) of this title and enacting provisions set out as notes under sections 1402 and 1411–1413 of this title] may be cited as the 'Education of the Handicapped Amendments of 1974'."

DEPUTY COMMISSIONER AND ASSOCIATE DEPUTY COMMISSIONER OF EDUCATION AND OTHER ASSISTANTS; ADDITIONAL POSITIONS

Section 612(b)(1) of Pub. L. 93–380 provided that: "The positions created by subsection (b) of section 603 of the Education of the Handicapped Act [subsec. (b) of this section] shall be in addition to the number of positions placed in the appropriate grades under section 5108 of title 5, United States Code, and such positions shall be in addition to, and without prejudice against, the number of positions otherwise placed in the Office of Education under such section 5108 or under other law. Nothing in this section shall be deemed as limiting the Commissioner from assigning additional General Schedule positions in grades 16, 17, and 18 to the Office should he determine such additions to be necessary to operate programs for educating handicapped children authorized by this Act [see Short Title note for Pub. L. 93–380, set out under section 821 of this title]."

Provision effective on and after sixtieth day after Aug. 21, 1974, see section 2(c) of Pub. L. 93–380, set out as a note under section 241b of this title.

§ 1403. National Advisory Committee on Handicapped Children.

* * * * *

(b) Functions of Committee; recommendations; report to Congress; termination of Committee.

The Advisory Committee shall review the administration and operation of the programs authorized by this chapter and other provisions of law administered by the Commissioner with respect to handicapped children, including their effect in improving the educational attainment of such children, and make recommendations for the improvement of such administration and operation with respect to such children. Such recommendations shall take into consideration experience gained under this and other Federal programs for handicapped children and, to the extent appropriate, experience gained under other public and private programs for handicapped children. The Advisory Committee shall from time to time make such recommendations as it may deem appropriate to the Commissioner and shall make an annual report of its findings and recommendations to the Commissioner not later than March 31 of each year. The Commissioner shall transmit each such report to the Secretary together with his comments and recommendations, and the Secretary shall transmit such report, comments, and recommendations to the Congress together with any comments or recommendations he may have with respect thereto. The Advisory Committee shall continue to exist until July 1, 1977.

(c) Authorization of appropriations.

There are authorized to be appropriated for the purposes of this section $100,000 for the fiscal year ending June 30, 1974, and for each of the three succeeding fiscal years. (As amended Pub. L. 93–380, title VI, § 613, Aug. 21, 1974, 88 Stat. 580.)

AMENDMENTS

1974—Subsec. (b). Pub. L. 93–380, § 613(a), continued existence of National Committee until July 1, 1977.

Subsec. (c). Pub. L. 93–380, § 613(b), added subsec. (c).

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment by Pub. L. 93–380 effective on and after sixtieth day after Aug. 21, 1974, see section 2(c) of Pub. L. 93–380, set out as a note under section 241b of this title.

§ 1405. Employment of handicapped individuals.

The Secretary shall assure that each recipient of assistance under this chapter shall make positive efforts to employ and advance in employment qualified handicapped individuals in programs assisted under this chapter. (Pub. L. 91–230, title VI, § 606, as added Pub. L. 94–142, § 6(a), Nov. 29, 1975, 89 Stat. 795.)

EFFECTIVE DATE

Section effective Nov. 29, 1975, see section 8(b) of Pub. L. 94–142, set out as a note under section 1411 of this title.

§ 1406. Grants for the removal of architectural barriers; authorization of appropriations.

(a) Upon application by any State or local educational agency or intermediate educational unit the Commissioner is authorized to make grants to pay part or all of the cost of altering existing buildings and equipment in the same manner and to the same extent as authorized by the Act approved August 12, 1968 (Public Law 90–480), relating to architectural barriers.

(b) For the purpose of carrying out the provisions of this section, there are authorized to be appropriated such sums as may be necessary. (Pub. L. 91–230, title VI, § 607, as added Pub. L. 94–142, § 6(a), Nov. 29, 1975, 89 Stat. 795).

REFERENCES IN TEXT

The Act approved August 12, 1968 (Public Law 90–480), referred to in subsec. (a), is classified to section 4151 et seq. of Title 42, The Public Health and Welfare.

EFFECTIVE DATE

Section effective Nov. 29 1975, see section 8(b) of Pub. L. 94–142, set out as a note under section 1411 of this title.

SUBCHAPTER II.—ASSISTANCE FOR EDUCATION OF ALL HANDICAPPED CHILDREN

§ 1411. Entitlements and allocations.

(a) Formula for determining maximum State entitlement.

(1) Except as provided in paragraph (3) and in section 1419 of this title, the maximum amount of the grant to which a State is entitled under this subchapter for any fiscal year shall be equal to—

(A) the number of handicapped children aged three to twenty-one, inclusive, in such State who are receiving special education and related services;

multiplied by—

(B) (i) 5 per centum, for the fiscal year ending September 30, 1978, of the average per pupil expenditure in public elementary and secondary schools in the United States;

(ii) 10 per centum, for the fiscal year ending September 30, 1979, of the average per pupil expenditure in public elementary and secondary schools in the United States;

(iii) 20 per centum, for the fiscal year ending September 30, 1980, of the average per pupil expenditure in public elementary and secondary schools in the United States;

(iv) 30 per centum, for the fiscal year ending September 30, 1981, of the average per pupil expenditure in public elementary and secondary schools in the United States; and

(v) 40 per centum, for the fiscal year ending September 30, 1982, and for each fiscal year thereafter, of the average per pupil expenditure in public elementary and secondary schools in the United States;

except that no State shall receive an amount which is less than the amount which such State received under this subchapter for the fiscal year ending September 30, 1977.

(2) For the purpose of this subsection and subsection (b) through subsection (e) of this section, the term "State" does not include Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands.

(3) The number of handicapped children receiving special education and related services in any fiscal year shall be equal to the average of the number of such children receiving special education and related services on October 1 and February 1 of the fiscal year preceding the fiscal year for which the determination is made.

(4) For purposes of paragraph (1)(B), the term "average per pupil expenditure", in the United States, means the aggregate current expenditures, during the second fiscal year preceding the fiscal year for which the computation is made (or, if satisfactory data for such year are not available at the time of computation, then during the most recent preceding fiscal year for which satisfactory data are available) of all local educational agencies in the United States (which, for purposes of this subsection, means the fifty States and the District of Columbia), as the case may be, plus any direct expenditures by the State for operation of such agencies (without regard to the source of funds from which either of such expenditures are made), divided by the aggregate number of children in average daily attendance to whom such agencies provided free public education during such preceding year.

(5) (A) In determining the allotment of each State under paragraph (1), the Commissioner may not count—

(i) handicapped children in such State under paragraph (1) (A) to the extent the number of such children is greater than 12 per centum of the number of all children aged five to seventeen, inclusive, in such State; and

(ii) handicapped children who are counted under section 241c–1 of this title.

(B) For purposes of subparagraph (A), the number of children aged five to seventeen, inclusive, in any State shall be determined by the Commissioner on the basis of the most recent satisfactory data available to him.

(b) Distribution and use of grant funds by States for fiscal year ending September 30, 1978.

(1) Of the funds received under subsection (a) of this section by any State for the fiscal year ending September 30, 1978—

(A) 50 per centum of such funds may be used by such State in accordance with the provisions of paragraph (2); and

(B) 50 per centum of such funds shall be distributed by such State pursuant to subsection (d) of this section to local educational agencies and intermediate educational units in such State, for use in accordance with the priorities established under section 1412(3) of this title.

(2) Of the funds which any State may use under paragraph (1)(A)—

(A) an amount which is equal to the greater of—

(i) 5 per centum of the total amount of funds received under this subchapter by such State; or

(ii) $200,000;

may be used by such State for administrative costs related to carrying out sections 1412 and 1413 of this title;

(B) the remainder shall be used by such State to provide support services and direct services, in accordance with the priorities established under section 1412(3) of this title.

(c) Distribution and use of grant funds by States for fiscal years ending September 30, 1979, and thereafter.

(1) Of the funds received under subsection (a) of this section by any State for the fiscal year ending September 30, 1979, and for each fiscal year thereafter—

(A) 25 per centum of such funds may be used by such State in accordance with the provisions of paragraph (2); and

(B) except as provided in paragraph (3), 75 per centum of such funds shall be distributed by such State pursuant to subsection (d) of this section to local educational agencies and intermediate educational units in such State, for use in accordance with priorities established under section 1412(3) of this title.

(2)(A) Subject to the provisions of subparagraph (B), of the funds which any State may use under paragraph (1)(A)—

(i) an amount which is equal to the greater of—

(I) 5 per centum of the total amount of funds received under this subchapter by such State; or

(II) $200,000;

may be used by such State for administrative costs related to carrying out the provisions of sections 1412 and 1413 of this title; and

(ii) the remainder shall be used by such State to provide support services and direct services, in accordance with the priorities established under section 1412(3) of this title.

(B) The amount expended by any State from the funds available to such State under paragraph (1)(A) in any fiscal year for the provision of support services or for the provision of direct services shall be matched on a program basis by such State, from funds other than Federal funds, for the provision of support services or for the provision of direct services for the fiscal year involved.

(3) The provisions of section 1413(a)(9) of this title shall not apply with respect to amounts available for use by any State under paragraph (2).

(4)(A) No funds shall be distributed by any State under this subsection in any fiscal year to any local educational agency or intermediate educational unit in such State if—

(i) such local educational agency or intermediate educational unit is entitled, under subsection (d) of this section, to less than $7,500 for such fiscal year; or

(ii) such local educational agency or intermediate educational unit has not submitted an application for such funds which meets the requirements of section 1414 of this title.

(B) Whenever the provisions of subparagraph (A) apply, the State involved shall use such funds to assure the provision of a free appropriate education to handicapped children residing in the area served by such local educational agency or such intermediate educational unit. The provisions of paragraph (2)(B) shall not apply to the use of such funds.

(d) Allocation of funds within States to local educational agencies and intermediate educational units.

From the total amount of funds available to local educational agencies and intermediate educational units in any State under subsection (b)(1)(B) or subsection (c)(1)(B) of this section, as the case may be, each local educational agency or intermediate educational unit shall be entitled to an amount which bears the same ratio to the total amount available under subsection (b)(1)(B) or subsection (c)(1)(B) of this section, as the case may be, as the number of handicapped children aged three to twenty-one, inclusive, receiving special education and related services in such local educational agency or intermediate educational unit bears to the aggregate number of handicapped children aged three to twenty-one, inclusive, receiving special education and related services in all local educational agencies and intermediate educational units which apply to the State educational agency involved for funds under this subchapter.

(e) Territories and possessions.

(1) The jurisdictions to which this subsection applies are Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands.

(2) Each jurisdiction to which this subsection applies shall be entitled to a grant for the purposes set forth in section 601(c) in an amount equal to an amount determined by the Commissioner in accordance with criteria based on respective needs, except that the aggregate of the amount to which such jurisdictions are so entitled for any fiscal year shall not exceed an amount equal to 1 per centum of the aggregate of the amounts available to all States under this subchapter for that fiscal year. If the aggregate of the amounts, determined by the Commissioner pursuant to the preceding sentence, to be so needed for any fiscal year exceeds an amount equal to such 1 per centum limitation, the entitlement of each such jurisdiction shall be reduced proportionately until such aggregate does not exceed such 1 per centum limitation.

(3) The amount expended for administration by each jurisdiction under this subsection shall not exceed 5 per centum of the amount allotted to such jurisdiction for any fiscal year, or $35,000, whichever is greater.

(f) Indian reservations.

(1) The Commissioner is authorized to make payments to the Secretary of the Interior according to the need for such assistance for the education of handicapped children on reservations serviced by elementary and secondary schools operated for Indian children by the Department of the Interior. The amount of such payment for any fiscal year shall not exceed 1 per centum of the aggregate amounts available to all States under this subchapter for that fiscal year.

(2) The Secretary of the Interior may receive an allotment under this subsection only after submit-

ting to the Commissioner an application which meets the applicable requirements of section 1414(a) of this title and which is approved by the Commissioner. The provisions of section 1416 of this title shall apply to any such application.

(g) Reductions or increases.

(1) If the sums appropriated for any fiscal year for making payments to States under this subchapter are not sufficient to pay in full the total amounts which all States are entitled to receive under this subchapter for such fiscal year, the maximum amounts which all States are entitled to receive under this subchapter for such fiscal year shall be ratably reduced. In case additional funds become available for making such payments for any fiscal year during which the preceding sentence is applicable, such reduced amounts shall be increased on the same basis as they were reduced.

(2) In the case of any fiscal year in which the maximum amounts for which States are eligible have been reduced under the first sentence of paragraph (1), and in which additional funds have not been made available to pay in full the total of such maximum amounts under the last sentence of such paragraph, the State educational agency shall fix dates before which each local educational agency or intermediate educational unit shall report to the State educational agency on the amount of funds available to the local educational agency or intermediate educational unit, under the provisions of subsection (d) of this section, which it estimates that it will expend in accordance with the provisions of this subchapter. The amounts so available to any local educational agency or intermediate educational unit, or any amount which would be available to any other local educational agency or intermediate educational unit if it were to submit a program meeting the requirements of this subchapter, which the State educational agency determines will not be used for the period of its availability, shall be available for allocation to those local educational agencies or intermediate educational units, in the manner provided by this section, which the State educational agency determines will need and be able to use additional funds to carry out approved programs. (As amended Pub. L. 93–380, title VI, § 614(a), (e)(1), (2), Aug. 21, 1974, 88 Stat. 580, 582; Pub. L. 94–142, §§ 2(a)(1)–(3), 5(a), (c), Nov. 29, 1975, 89 Stat. 773, 776, 794.)

TEXT OF SECTION EFFECTIVE THROUGH SEPT. 30, 1977

Section as set out above is not effective until Oct. 1, 1977, Pub. L. 93–380, Title VI, § 614(a), Aug. 21, 1974, 88 Stat. 580, and Pub. L. 94–142, § 2(a)(1)–(3), (b)(1), Nov. 29, 1975, 89 Stat. 773, provide that for the period through the end of the fiscal year ending Sept. 30, 1977, this section reads as follows:

§ 1411. Grants to States for education of handicapped children.

(a) The Commissioner shall, in accordance with the provisions of this subchapter, make payments to States for the purpose of assisting the States in the initiation, expansion, and improvement of programs and projects for the education of handicapped children at the preschool, elementary school, and secondary school levels in order to provide full educational opportunities to all handicapped children. Such payments may be used for the early identification and assessment of handicapping conditions in children under three years of age.

(b)(1) Subject to the provisions of section 1412 of this title, the maximum amount of the grant to which a State shall be entitled under this subchapter shall be equal to—

(A) the number of children aged three to twenty-one inclusive, in that State in the most recent fiscal year for which satisfactory data are available;

multiplied by—

(B) $8.75.

(2) For the purpose of this subsection, the term "State" does not include Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands.

(c)(1) The jurisdictions to which this subsection applies are Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands.

(2) Each jurisdiction to which this subsection applies shall, for the fiscal years ending June 30, 1975, and 1976, and for the fiscal year ending September 30, 1977, be entitled to a grant in an amount equal to an amount determined by the Commissioner, in accordance with criteria established by regulations, needed to initiate, expand, or improve programs and projects for the education of handicapped children at the preschool, elementary school, and secondary school levels, in that jurisdiction, except that the aggregate of the amount to which such jurisdictions are so entitled for any fiscal year shall not exceed an amount equal to 1 per centum of the aggregate of the amounts to which all States are entitled under subsection (b) of this section for that fiscal year. If the aggregate of the amounts, determined by the Commissioner pursuant to the preceding sentence, to be so needed for any fiscal year exceeds an amount equal to such 1 per centum limitation, the entitlement of each such jurisdiction shall be reduced proportionately until such aggregate does not exceed such 1 per centum limitation.

(d) The Commissioner is authorized for the fiscal years ending June 30, 1975, and 1976, and for the fiscal year ending September 30, 1977, to make payments to the Secretary of the Interior according to the need for such assistance for the education of handicapped children on reservations serviced by elementary and secondary schools operated for Indian children by the Department of the Interior, and the terms upon which payments for such purposes shall be made to the Secretary of the Interior shall be determined pursuant to such criteria as the Commissioner determines will best carry out the purposes of this subchapter. The amount of such payment for any fiscal year shall not exceed 1 per centum of the aggregate amounts to which States are entitled under subsection (b) of this section for that fiscal year.

REFERENCES IN TEXT

Section 601(c), referred to in subsec. (e)(2), is section 601(c) of Pub. L. 91–230, which is set out as a note under section 1401 of this title.

AMENDMENTS

1975—Pub. L. 94–142, § 5(a), effective Oct. 1, 1977, completely revised the section so as to incorporate within its provisions the authority for the basic entitlement and allocation of funds, the formula for determining State entitlement, the distribution of grant funds within the State, coverage for territories and possessions, coverage for Indian reservations, and reductions or increases in funds and allocations. Pending the effective date of that revision, Pub. L. 94–142 amended this section as it applies through the end of the fiscal year ending Sept. 30, 1977, as described hereunder.

Subsec. (a)(5)(A). Pub. L. 94–142, § 5(c), effective on the date upon which final regulations prescribed by the Commissioner under section 5(b) of Pub. L. 94–142 take effect, struck out provision in section as effective Oct. 1, 1977, that, in determining the allotment of each State, the Commissioner may not count, as part of the figure of 12 per centum of the number of all children aged five to seventeen in the State, any children with specific learning disabilities to the extent that the number of those children is greater than one-sixth of that percentage.

Subsec. (b)(2). Pub. L. 94–142, § 2(a)(1)(A), effective for the period from July 1, 1975, through the end of the fiscal year ending Sept. 30, 1977, deleted the Commonwealth of Puerto Rico from the definition of "State".

Subsec. (c)(1). Pub. L. 94–142, § 2(a)(1)(B), effective for the period from July 1, 1975, through the end of the fiscal year ending Sept. 30, 1977, deleted the Commonwealth of Puerto Rico from the enumeration of territories and possessions to which subsec. (c) applies.

Subsec. (c)(2). Pub. L. 94–142, § 2(a)(2), effective for the period from July 1, 1975, through the end of the fiscal year ending Sept. 30, 1977, substituted "years ending June 30, 1975, and 1976, and for the fiscal year ending September 30, 1977" for "year ending June 30, 1975" and "1 per centum" for "2 per centum".

Subsec. (d). Pub. L. 94–142, § 2(a)(3), effective for the period from July 1, 1975, through the end of the fiscal year ending Sept. 30, 1977, substituted "years ending June 30, 1975, and 1976, and for the fiscal year ending September 30, 1977" for "year ending June 30, 1975".

1974–Pub. L. 93–380, § 614(a), amended provisions as follows:

Section 614(a) of Pub. L. 93–380 enacted provisions for grants to States and Territories and assistance for Indian Reservation schools for education of handicapped children, effective for fiscal years ending June 30, 1975, and 1976, for the period beginning July 1, 1976, and ending Sept. 30, 1976, and for the fiscal year ending Sept. 30, 1977.

EFFECTIVE DATE OF 1975 AMENDMENT

Section 5(c) of Pub. L. 94–142 provided in part that the amendment of subsec. (a)(5)(A) of this section by section 5(c) of Pub. L. 94–142 is effective on the date upon which final regulations prescribed by the Commissioner of Education under section 5(b) of Pub. L. 94–142, set out as a note under this section take effect.

Section 8 of Pub. L. 94–142 provided that:

"(a) Notwithstanding any other provision of law, the amendments made by sections 2(a), 2(b), and 2(c) [amending subsecs. (b)(2), (c)(1), (c)(2), and (d) of this section and section 1412(a) of this title as in effect through Sept. 30, 1977, and amending provisions set out as notes under this section and sections 1412 and 1413 of this title] shall take effect on July 1, 1975.

"(b) The amendments made by sections 2(d), 2(e), 3, 6, and 7 [enacting sections 1405, 1406, and 1412(d) of this title, amending sections 1232 and 1453 of this title, enacting provisions set out as a note under this section, and amending provisions set out as a note under section 1401 of this title] shall take effect on the date of the enactment of this Act [Nov. 29, 1975].

"(c) The amendments made by sections 4 and 5(a) [enacting sections 1415 to 1420 of this title and amending this section and sections 1401, 1412, 1413, and 1414 of this title] shall take effect on October 1, 1977, except that the provisions of clauses (A), (C), (D), and (E) of paragraph (2) of section 612 of the Act [section 1412 of this title], as amended by this Act, section 617(a)(1)(D) of the Act [section 1417(a)(1)(D) of this title], as amended by this Act, section 617(b) of the Act [section 1417(b) of this title], as amended by this Act, and section 618(a) of the Act [section 1418(a) of this title], as amended by this Act, shall take effect on the date of the enactment of this Act [Nov. 29, 1975]."

"(d) The provisions of section 5(b) [amending this section and enacting provisions set out as notes under this section] shall take effect on the date of the enactment of this Act [Nov. 29, 1975]."

EFFECTIVE DATE OF 1974 AMENDMENT

Section 614(a) of Pub. L. 93–380, which, as originally enacted, provided that the 1974 amendment of this section by section 614(a) of Pub. L. 93–380 was effective for fiscal year 1975 only, was amended by section 2(b)(1) of Pub. L. 94–142 to extend the life of the amendment of this section by section 614(a) of Pub. L. 93–380 by making it effective for the fiscal years ending June 30, 1975, and 1976, the period beginning July 1, 1976, and ending Sept. 30, 1976, and the fiscal year ending Sept. 30, 1977.

Section 614(e)(3) of Pub. L. 93–380 provided that: "The amendments made by subsection (e) [to subsecs. (a) and (b) of this section] shall become effective and shall be deemed to have been enacted on July 1, 1975."

AUTHORIZATION OF APPROPRIATIONS

Section 2(e) of Pub. L. 94–142 provided that: "Notwithstanding the provision of section 611 of the Act [this section] as in effect during the fiscal years 1976 and 1977, there are authorized to be appropriated $100,000,000 for the fiscal year 1976, such sums as may be necessary for the period beginning July 1, 1976, and ending September 30, 1976, and $200,000,000 for the fiscal year 1977, to carry out the provisions of part B of the Act [this subchapter], as in effect during such fiscal years."

RULES AND REGULATIONS FOR DETERMINING SPECIFIC LEARNING DISABILITIES, DIAGNOSTIC PROCEDURES, AND MONITORING PROCEDURES; PROMULGATION BY COMMISSIONER OF EDUCATION; REVIEW OF REGULATIONS BY CONGRESSIONAL COMMITTEES

Section 5(b) of Pub. L. 94–142 provided that:

"(1) The Commissioner of Education shall, no later than one year after the effective date of this subsection [Nov. 29, 1975], prescribe—

"(A) regulations which establish specific criteria for determining whether a particular disorder or condition may be considered a specific learning disability for purposes of designating children with specific learning disabilities;

"(B) regulations which establish and describe diagnostic procedures which shall be used in determining whether a particular child has a disorder or condition which places such child in the category of children with specific learning disabilities; and

"(C) regulations which establish monitoring procedures which will be used to determine if State educational agencies, local educational agencies, and intermediate educational units are complying with the criteria established under clause (A) and clause (B).

"(2) The Commissioner shall submit any proposed regulation written under paragraph (1) to the Committee on Education and Labor of the House of Representatives and the Committee on Labor and Public Welfare of the Senate, for review and comment by each such committee, at least fifteen days before such regulation is published in the Federal Register.

"(3) If the Commissioner determines, as a result of the promulgation of regulations under paragraph (1), that changes are necessary in the definition of the term 'children with specific learning disabilities', as such term is defined by section 602(15) of the Act [section 1401(15) of this title], he shall submit recommendations for legislation with respect to such changes to each House of the Congress.

"(4) For purposes of this subsection:

"(A) The term 'children with specific learning disabilities' means those children who have a disorder in

one or more of the basic psychological processes involved in understanding or in using language, spoken or written, which disorder may manifest itself in imperfect ability to listen, think, speak, read, write, spell, or do mathematical calculations. Such disorders include such conditions as perceptual handicaps, brain injury, minimal brain dysfunction, dyslexia, and developmental aphasia. Such term does not include children who have learning problems which are primarily the result of visual, hearing, or motor handicaps, of mental retardation, of emotional disturbance, or environmental, cultural, or economic disadvantage.

"(B) The term 'Commissioner' means the Commissioner of Education."

DUTIES AND RESPONSIBILITIES OF SECRETARY OF INTERIOR RESPECTING FUNDS

Duties and responsibilities of Secretary of Interior and those of a State educational agency with respect to funds under this subchapter, see section 421(b)(2) of Pub. L. 92–318, title IV, June 23, 1972, 86 Stat. 341, set out as a note under section 821 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1413, 1414, 1418, 1419 of this title.

§ 1412. Eligibility requirements.

In order to qualify for assistance under this subchapter in any fiscal year, a State shall demonstrate to the Commissioner that the following conditions are met:

(1) The State has in effect a policy that assures all handicapped children the right to a free appropriate public education.

(2) The State has developed a plan pursuant to section 1413(b) of this title in effect prior to November 29, 1975, and submitted not later than August 21, 1975, which will be amended so as to comply with the provisions of this paragraph. Each such amended plan shall set forth in detail the policies and procedures which the State will undertake or has undertaken in order to assure that—

(A) there is established (i) a goal of providing full educational opportunity to all handicapped children, (ii) a detailed timetable for accomplishing such a goal, and (iii) a description of the kind and number of facilities, personnel, and services necessary throughout the State to meet such a goal;

(B) a free appropriate public education will be available for all handicapped children between the ages of three and eighteen within the State not later than September 1, 1978, and for all handicapped children between the ages of three and twenty-one within the State not later than September 1, 1980, except that, with respect to handicapped children aged three to five and aged eighteen to twenty-one, inclusive, the requirements of this clause shall not be applied in any State if the application of such requirements would be inconsistent with State law or practice, or the order of any court, respecting public education within such age groups in the State;

(C) all children residing in the State who are handicapped, regardless of the severity of their handicap, and who are in need of special education and related services are identified, located, and evaluated, and that a practical method is developed and implemented to determine which children are currently receiving needed special education and related services and which children are not currently receiving needed special education and related services;

(D) policies and procedures are established in accordance with detailed criteria prescribed under section 1417(c) of this title; and

(E) the amendment to the plan submitted by the State required by this section shall be available to parents, guardians, and other members of the general public at least thirty days prior to the date of submission of the amendment to the Commissioner.

(3) The State has established priorities for providing a free appropriate public education to all handicapped children, which priorities shall meet the timetables set forth in clause (B) of paragraph (2) of this section, first with respect to handicapped children who are not receiving an education, and second with respect to handicapped children, within each disability, with the most severe handicaps who are receiving an inadequate education, and has made adequate progress in meeting the timetables set forth in clause (B) of paragraph (2) of this section.

(4) Each local educational agency in the State will maintain records of the individualized education program for each handicapped child, and such program shall be established, reviewed, and revised as provided in section 1414(a)(5) of this title.

(5) The State has established (A) procedural safeguards as required by section 1415 of this title, (B) procedures to assure that, to the maximum extent appropriate, handicapped children, including children in public or private institutions or other care facilities, are educated with children who are not handicapped, and that special classes, separate schooling, or other removal of handicapped children from the regular educational environment occurs only when the nature or severity of the handicap is such that education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily, and (C) procedures to assure that testing and evaluation materials and procedures utilized for the purposes of evaluation and placement of handicapped children will be selected and administered so as not to be racially or culturally discriminatory. Such materials or procedures shall be provided and administered in the child's native language or mode of communication, unless it clearly is not feasible to do so, and no single procedure shall be the sole criterion for determining an appropriate educational program for a child.

(6) The State educational agency shall be responsible for assuring that the requirements of this subchapter are carried out and that all educational programs for handicapped children within the State, including all such programs administered by any other State or local agency, will be under the general supervision of the persons responsible for educational programs for handicapped children in the State educational agency and shall meet education standards of the State educational agency.

(7) The State shall assure that (A) in carrying out the requirements of this section procedures are

established for consultation with individuals involved in or concerned with the education of handicapped children, including handicapped individuals and parents or guardians of handicapped children, and (B) there are public hearings, adequate notice of such hearings, and an opportunity for comment available to the general public prior to adoption of the policies, programs, and procedures required pursuant to the provisions of this section and section 1413 of this title. (As amended Pub. L. 92–318, title IV, § 421(b)(1)(c), June 23, 1972, 86 Stat. 341; Pub. L. 93–380, title VI, §§ 614(b), (f)(1), 615(a), title VIII, § 843(b), Aug. 21, 1974, 88 Stat. 581, 582, 611; Pub. L. 94–142, §§ 2(a)(4), (c), (d), 5(a), Nov. 29, 1975, 89 Stat. 773, 774, 780.)

TEXT OF SECTION EFFECTIVE THROUGH SEPT. 30, 1977

Clauses (A), (C), (D), and (E) of par. (2) of section as set out above are effective Nov. 29, 1975. Remainder of section as set out above is not effective until Oct. 1, 1977. See Effective Date of 1975 Amendment note hereunder.

Pub. L. 93–380, § 614(b), Aug. 21, 1974, 88 Stat. 581, and Pub. L. 94–142, § 2(a)(4), (b)(2), (c), (d), 89 Stat. 773, 774, provide that for the period through the end of the fiscal year ending Sept. 30, 1977, this section reads as follows:

§ 1412. Allocation of appropriations

(a) Sums appropriated for the fiscal years ending June 30, 1975, and 1976, for the period beginning July 1, 1976, and ending September 30, 1976, and for the fiscal year ending September 30, 1977, shall be made available to States and allocated to each State, on the basis of unsatisfied entitlements under section 1411 of this title, in an amount equal to the amount it received from the appropriation for this subchapter for the preceding fiscal year, or $300,000, whichever is greater.

(b) Any sums appropriated to carry out this subchapter for any fiscal year which remain after allocations under subsection (a) of this section shall be made to States in accordance with entitlements created under section 1411 of this title (to the extent that such entitlements are unsatisfied) ratably reduced.

(c) In the event that funds become available for making payments under this subchapter for any fiscal year after allocations have been made under subsections (a) and (b) of this section for that year, the amounts reduced under subsection (b) of this section shall be increased on the same basis as they were reduced.

(d) The Commissioner shall, no later than one hundred twenty days after November 29, 1975, prescribe and publish in the Federal Register such rules as he considers necessary to carry out the provisions of this section and section 1411 of this title.

AMENDMENTS

1975—Pub. L. 94–142, § 5(a), effective Oct. 1, 1977, completely revised the section so as to incorporate within its provisions seven conditions which must be met by States in order to qualify for assistance. Pending the effective date of that revision, Pub. L. 94–142 amended this section as it applies through the end of the fiscal year ending Sept. 30, 1977, as described hereunder.

Subsec. (a). Pub. L. 94–142, § 2(a)(4), (c), effective for the period from July 1, 1975, through the end of the fiscal year ending Sept. 30, 1977, substituted "years ending June 30, 1975, and 1976, for the period beginning July 1, 1976, and ending September 30, 1976, and for the fiscal year ending September 30, 1977" for "year ending June 30, 1975" and "preceding fiscal year" for "fiscal year 1974" and added ", or $300,000, whichever is greater" following "preceding fiscal year".

Subsec. (d). Pub. L. 94–142, § 2(d), effective for the period from Nov. 29, 1975, through the end of the fiscal year ending Sept. 30, 1977, added subsec. (d).

1974—Pub. L. 93–380, § 614(b), amended provisions as follows:

Section 614(b) of Pub. L. 93–380 enacted provisions for allocations of appropriations to States, basis for such allocations, and reductions or increments thereof, effective for fiscal years ending June 30, 1975, and 1976, for the period beginning July 1, 1976, and ending Sept. 30, 1976, and for fiscal year ending Sept. 30, 1977.

Subsec. (a)(1). Pub. L. 93–380, § 843(b)(3), reduced rate from "3" to "1" per centum, effective after June 30, 1975.

Subsec. (a)(1)(A). Pub. L. 93–380, § 843(b)(1), struck "Puerto Rico," preceding "Guam", effective afer June 30, 1975.

Subsec. (a)(1)(B). Pub. L. 93–380, § 614(f)(1), substituted "1977" for "1973", effective on and after July 1, 1973.

Subsec. (a)(2). Pub. L. 93–380, §§ 615(a)(1), 843(b)(2), substituted $300,000 for $200,000, effective on and after July 1, 1975; and struck out "the Commonwealth of Puerto Rico," preceding "Guam", effective after June 30, 1975.

Subsec. (a)(3). Pub. L. 93–380, § 615(a)(2), added par. (3), effective on and after July 1, 1975.

1972—Subsec. (a)(1)(B). Pub. L. 92–318 substituted "July 1, 1973" for "July 1, 1972".

EFFECTIVE DATE OF 1975 AMENDMENT

Amendment of subsec. (a) of this section as in effect through Sept. 30, 1977, by section 2(a)(4) and (c) of Pub. L. 74–142 effective July 1, 1975, see action 8(a) of Pub. L. 94–142, set out as a note under section 1411 of this title.

Enactment of subsec. (d) of this section as in effect through Sept. 30, 1977, by section 2(d) of Pub. L. 94–142 effective Nov. 29, 1975, see section 8(b) of Pub. L. 94–142, set out as a note under section 1411 of this title.

Complete revision of this section by section 5(a) of Pub. L. 94–142 effective Oct. 1, 1977, except for clauses (A), (C), (D), and (E) of par. (2) of this section as so revised which are effective Nov. 29, 1975, see section 8(c) of Pub. L. 94–142, set out as a note under section 1411 of this title.

EFFECTIVE DATE OF 1974 AMENDMENT

Section 614(b) of Pub. L. 93–380, which, as originally enacted, provided that the 1974 amendment of this section by section 614(b) of Pub. L. 93–380 was effective for fiscal year 1975 only, was amended by section 2(b)(2) of Pub. L. 94–142 to extend the life of the amendment of this section by section 614(b) of Pub. L. 93–380 by making it effective for the fiscal years ending June 30, 1975, and 1976, the period beginning July 1, 1976, and ending Sept. 30, 1976, and the fiscal year ending Sept. 30, 1977.

Section 843(b) of Pub. L. 93–380 provided that amendment of subsec. (a)(1), (1)(A), and (2) of this section and section 1413(a)(1) of this title by Pub. L. 93–380 shall be effective after June 30, 1975.

Section 614(f)(2) of Pub. L. 93–380 provided that: "The amendment made by this subsection [to subsec. (a)(1)(B) of this section] shall be effective on and after July 1, 1973."

Section 615(a) of Pub. L. 93–380 provided that amendment of subsec. (a)(2) and enactment of subsec. (a)(3) by section 615(a) shall be effective on and after July 1, 1975.

Section 615(d) of Pub. L. 93–380 provided that: "The amendment made by subsections (a)(1) and (b) of this section [to subsec. (a)(2) of this section and section 1413(a)(1) of this title] shall be effective in any fiscal year for which the aggregate of the amounts allotted to the States for that fiscal year for carrying out part B of the

Education of the Handicapped Act [this subchapter] is $45,000,000 or more."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1411, 1413, 1414, 1416, 1418, 1419 of this title.

§ 1413. State plans.

(a) Requisite features.

Any State meeting the eligibility requirements set forth in section 1412 of this title and desiring to participate in the program under this subchapter shall submit to the Commissioner, through its State educational agency, a State plan at such time, in such manner, and containing or accompanied by such information, as he deems necessary. Each such plan shall—

(1) set forth policies and procedures designed to assure that funds paid to the State under this subchapter will be expended in accordance with the provisions of this subchapter, with particular attention given to the provisions of sections 1411 (b), 1411(c), 1411(d), 1412(2), and 1412(3) of this title;

(2) provide that programs and procedures will be established to assure that funds received by the State or any of its political subdivisions under any other Federal program, including section 241c–1 of this title, section 844a(b)(8) of this title or its successor authority, and section 1262(a)(4)(B) of this title, under which there is specific authority for the provision of assistance for the education of handicapped children, will be utilized by the State, or any of its political subdivisions, only in a manner consistent with the goal of providing a free appropriate public education for all handicapped children, except that nothing in this clause shall be construed to limit the specific requirements of the laws governing such Federal programs;

(3) set forth, consistent with the purposes of this chapter, a description of programs and procedures for (A) the development and implementation of a comprehensive system of personnel development which shall include the inservice training of general and special educational instructional and support personnel, detailed procedures to asure that all personnel necessary to carry out the purposes of this chapter are appropriately and adequately prepared and trained, and effective procedures for acquiring and disseminating to teachers and administrators of programs for handicapped children significant information derived from educational research, demonstration, and similar projects, and (B) adopting, where appropriate, promising educational practices and materials development through such projects;

(4) set forth policies and procedures to assure—

(A) that, to the extent consistent with the number and location of handicapped children in the State who are enrolled in private elementary and secondary school, provision is made for the participation of such children in the program assisted or carried out under this subchapter by providing for such children special education and related services; and

(B) that (i) handicapped children in private schools and facilities will be provided special education and related services (in conformance with an individualized educational program as required by this subchapter) at no cost to their parents or guardian, if such children are placed in or referred to such schools or facilities by the State or appropriate local educational agency as the means of carrying out the requirements of this subchapter or any other applicable law requiring the provision of special education and related services to all handicapped children within such State, and (ii) in all such instances the State educational agency shall determine whether such schools and facilities meet standards that apply to State and local educational agencies and that children so served have all the rights they would have if served by such agencies;

(5) set forth policies and procedures which assure that the State shall seek to recover any funds made available under this subchapter for services to any child who is determined to be erroneously classified as eligible to be counted under section 1411(a) or 1411(d) of this title;

(6) provide satisfactory assurance that the control of funds provided under this subchapter, and title to property derived therefrom, shall be in a public agency for the uses and purposes provided in this subchapter, and that a public agency will administer such funds and property;

(7) provide for (A) making such reports in such form and containing such information as the Commissioner may require to carry out his functions under this subchapter, and (B) keeping such records and affording such access thereto as the Commissioner may find necessary to assure the correctness and verification of such reports and proper disbursement of Federal funds under this subchapter;

(8) provide procedures to assure that final action with respect to any application submitted by a local educational agency or an intermediate educational unit shall not be taken without first affording the local educational agency or intermediate educational unit involved reasonable notice and opportunity for a hearing;

(9) provide satisfactory assurance that Federal funds made available under this subchapter (A) will not be commingled with State funds, and (B) will be so used as to supplement and increase the level of State and local funds expended for the education of handicapped children and in no case to supplant such State and local funds, except that, where the State provides clear and convincing evidence that all handicapped children have available to them a free appropriate public education, the Commissioner may waive in part the requirement of this clause if he concurs with the evidence provided by the State;

(10) provide, consistent with procedures prescribed pursuant to section 1417(a)(2) of this title, satisfactory assurance that such fiscal control and fund accounting procedures will be adopted as may be necessary to assure proper disbursement of, and accounting for, Federal funds paid under this subchapter to the State, including any such funds

paid by the State to local educational agencies and intermediate educational units;

(11) provide for procedures for evaluation at least annually of the effectiveness of programs in meeting the educational needs of handicapped children (including evaluation of individualized education programs), in accordance with such criteria that the Commissioner shall prescribe pursuant to section 1417 of this title; and

(12) provide that the State has an advisory panel, appointed by the Governor or any other official authorized under State law to make such appointments, composed of individuals involved in or concerned with the education of handicapped children, including handicapped individuals, teachers, parents or guardians of handicapped children, State and local education officials, and administrators of programs for handicapped children, which (A) advises the State educational agency of unmet needs within the State in the education of handicapped children, (B) comments publicly on any rules or regulations proposed for issuance by the State regarding the education of handicapped children and the procedures for distribution of funds under this subchapter, and (C) assists the State in developing and reporting such data and evaluations as may assist the Commissioner in the performance of his responsibilities under section 1418 of this title.

(b) Additional assurances.

Whenever a State educational agency provides free appropriate public education for handicapped children, or provides direct services to such children, such State educational agency shall include, as part of the State plan required by subsection (a) of this section, such additional assurances not specified in such subsection (a) of this section as are contained in section 1414(a) of this title, except that funds available for the provision of such education or services may be expended without regard to the provisions relating to excess costs in section 1414(a) of this title.

(c) Notice and hearing prior to disapproval of plan.

The Commissioner shall approve any State plan and any modification thereof which—

(1) is submitted by a State eligible in accordance with section 1412 of this title; and

(2) meets the requirements of subsection (a) and subsection (b) of this section.

The Commissioner shall disapprove any State plan which does not meet the requirements of the preceding sentence, but shall not finally disapprove a State plan except after reasonable notice and opportunity for a hearing to the State. (As amended Pub. L. 93–380, title VI, §§ 614(c), (d), 615(b), (c), title VIII, § 843(b)(2), Aug. 21, 1974, 88 Stat. 581, 583, 611; Pub. L. 94–142, §§ 2(b)(3), 5(a), Nov. 29, 1975, 89 Stat. 774, 782.)

TEXT OF SECTION EFFECTIVE THROUGH SEPT. 30, 1977

Section as set out above is not effective until Oct. 1, 1977. Pub. L. 93–380, Title VI, §§ 614(c), (d), 615(b), (c), Title VIII, § 843(b)(2), Aug. 21, 1974, 88 Stat. 581, 583, 611, and Pub. L. 94–142, § 2(b)(3), Nov. 29, 1975, 89 Stat. 774, provide that for the period through the end of the fiscal year ending Sept. 30, 1977, this section reads as follows:

§ 1413. State plans

(a) Any State which is entitled to receive payments under this subchapter shall submit to the Commissioner through its State educational agency a State plan (not part of any other plan) in such detail as the Commissioner deems necessary. Such State plan shall—

(1) set forth such policies and procedures as will provide satisfactory assurance that funds paid to the State under this subchapter will be expended (A) either directly or through individual, or combinations of, local educational agencies, solely to initiate, expand, or improve programs and projects, including preschool programs and projects, (i) which are designed to meet the special educational and related needs of handicapped children throughout the State, and (ii) which are of sufficient size, scope, and quality (taking into consideration the special educational needs of such children) as to give reasonable promise of substantial progress toward meeting those needs, and (B) for the proper and efficient administration of the State plan (including State leadership activities and consultative services), and for planning on the State and local level: Provided, That the amount expended for such administration and planning shall not exceed 5 per centum of the amount allotted to the State for any fiscal year or $200,000 ($35,000 in the case of Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands), whichever is greater;

(2) provide satisfactory assurance that, to the extent consistent with the number and location of handicapped children in the State who are enrolled in private elementary and secondary schools, provision will be made for participation of such children in programs assisted or carried out under this subchapter;

(3) provide satisfactory assurance that the control of funds provided under this subchapter, and title to property derived therefrom, shall be in a public agency for the uses and purposes provided in this subchapter, and that a public agency will administer such funds and property;

(4) set forth policies and procedures which provide satisfactory assurance that Federal funds made available under this subchapter will be so used as to supplement and, to the extent practical, increase the level of State, local, and private funds expended for the education of handicapped children, and in no case supplant such State, local and private funds;

(5) provide that effective procedures, including provision for appropriate objective measurements of educational achievement, will be adopted for evaluating at least annu-

ally the effectiveness of the programs in meeting the special educational needs of, and providing related services for, handicapped children;

(6) provide that the State educational agency will be the sole agency for administering or supervising the administration of the plan;

(7) provide for (A) making such reports, in such form and containing such information, as the Commissioner may require to carry out his functions under this subchapter, including reports of the objective measurements required by clause (5) of this subsection, and (B) keeping such records and for affording such access thereto as the Commissioner may find necessary to assure the correctness and verification of such reports and proper disbursement of Federal funds under this subchapter;

(8) provide satisfactory assurance that such fiscal control and fund accounting procedures will be adopted as may be necessary to assure proper disbursement of, and accounting for, Federal funds paid under this subchapter to the State, including any such funds paid by the State to local educational agencies;

(9) provide satisfactory assurance that funds paid to the State under this subchapter shall not be made available for handicapped children eligible for assistance under section 241c(a)(5) of this title;

(10) provide satisfactory assurance that effective procedures will be adopted for acquiring and disseminating to teachers of, and administrators of programs for, handicapped children significant information derived from educational research, demonstration, and similar projects, and for adopting, where appropriate, promising educational practices developed through such projects;

(11) contain a statement of policies and procedures which will be designed to insure that all education programs for the handicapped in the State will be properly coordinated by the persons in charge of special education programs for handicapped children in the State educational agency;

(12) (A) establish a goal of providing full educational opportunities to all handicapped children, and (B) provide for a procedure to assure that funds expended under this subchapter are used to accomplish the goal set forth in (A) of this paragraph and priority in the utilization of funds under this subchapter will be given to handicapped children who are not receiving an education; and

(13) provide procedures for insuring that handicapped children and their parents or guardians are guaranteed procedural safeguards in decisions regarding identification, evaluation and educational placement of handicapped children including, but not limited to (A) (i) prior notice to parents or guardians of the child when the local or State educational agency proposes to change the educational placement of the child, (ii) an opportunity for the parents or guardians to obtain an impartial due process hearing, examine all relevant records with respect to the classification or educational placement of the child, and obtain an independent educational evaluation of the child, (iii) procedures to protect the rights of the child when the parents or guardians are not known, unavailable, or the child is a ward of the State including the assignment of an individual (not to be an employee of the State or local educational agency involved in the education or care of children) to act as a surrogate for the parents or guardians, and (iv) provision to insure that the decisions rendered in the impartial due process hearing required by this paragraph shall be binding on all parties subject only to appropriate administrative or judicial appeal; and (B) procedures to insure that, to the maximum extent appropriate, handicapped children, including children in public or private institutions or other care facilities, are educated with children who are not handicapped, and that special classes, separate schooling, or other removal of handicapped children from the regular education environment occurs only when the nature or severity of the handicap is such that education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily; and (C) procedures to insure the testing and evaluation materials and procedures utilized for the purposes of classification and placement of handicapped children will be selected and administered so as not to be racially or culturally discriminatory.

(b) (1) Any State which desires to receive a grant under this subchapter for any fiscal year beginning after June 30, 1975, shall submit to the Commissioner for approval not later than one year after August 21, 1974, through its State educational agency an amendment to the State plan required under subsection (a) of this section, setting forth in detail the policies and procedures which the State will undertake in order to assure that—

(A) all children residing in the State who are handicapped regardless of the severity of their handicap and who are in need of special education and related services are identified, located, and evaluated, including a practical method of determining which children are currently receiving needed special education and related services and which children are not currently receiving needed special education and related services;

(B) policies and procedures will be established in accordance with detailed criteria prescribed by the Commissioner to protect the confidentiality of such data and information by the State;

(C) there is established (i) a goal of providing full educational opportunities to all handicapped children, (ii) a detailed timetable for accomplishing such a goal, and (iii) a description of the kind and number of facilities, personnel, and services necessary throughout the State to meet such a goal; and

(D) the amendment submitted by the State pursuant to this subsection shall be available to parents and other members of the general public at least thirty days prior to the date of submission of the amendment to the Commissioner.

For the purpose of this subchapter, any amendment to the State plan required by this subsection and approved by the Commissioner shall be considered, after June 30, 1975, as a required portion of the State plan.

(2) The requirement of paragraph (1) of this subsection shall not be effective with respect to any fiscal year in which the aggregate of the amounts allotted to the States for this subchapter for that fiscal year is less than $45,000,000.

(c) The Commissioner shall approve any State plan which he determines meets the requirements and purposes of this subchapter.

(d)(1) The Commissioner shall not approve any State plan pursuant to this section for any fiscal year unless the plan has, prior to its submission, been made public as a separate document by the State educational agency and a reasonable opportunity has been given by that agency for comment thereon by interested persons (as defined by regulation). The State educational agency shall make public the plan as finally approved. The Commissioner shall not finally disapprove any plan submitted under this section or any modification thereof, without first affording the State educational agency submitting the plan reasonable notice and opportunity for a hearing.

(2) Whenever the Commissioner, after reasonable notice and opportunity for hearing to such State agency, finds—

(A) that the State plan has been so changed that it no longer complies with the provisions of this subchapter, or

(B) that in the administration of the plan there is a failure to comply substantially with any such provision or with any requirements set forth in the application of a local educational agency approved pursuant to such plan,

the Commissioner shall notify the agency that further payments will not be made to the State under this subchapter (or in his discretion, that further payments to the State will be limited to programs or projects under the State plan, or portions thereof, not affected by the failure, or that the State educational agency shall not make further payments under this subchapter to specified local agencies affected to[1] the failure) until he is satisfied that there is no longer any such failure to comply. Until he is so satisfied, the Commissioner shall make no further payments to the State under this subchapter (or shall limit payments to programs or projects under, or parts of, the State plan not affected by the failure, or payments by the State educational agency under this subchapter shall be limited to local educational agencies not affected by the failure, as the case may be).

(e)(1) If any State is dissatisfied with the Commissioner's final action with respect to the approval of its State plan submitted under subsection (a) of this section or with his final action under subsection (d) of this section, such State may, within sixty days after notice of such action, file with the United States court of appeals for the circuit in which such State is located a petition for review of that action. A copy of the petition shall be forthwith transmitted by the clerk of the court to the Commissioner. The Commissioner thereupon shall file in the court the record of the proceedings on which he based his action, as provided in section 2112 of Title 28.

(2) The findings of fact by the Commissioner, if supported by substantial evidence, shall be conclusive; but the court, for good cause shown, may remand the case to the Commissioner to take further evidence, and the Commissioner may thereupon make new or modified findings of fact and may modify his previous action, and shall certify to the court the record of the further proceedings. Such new or modified findings of fact shall likewise be conclusive if supported by substantial evidence.

(3) The court shall have jurisdiction to affirm the action of the Commissioner or to set it aside, in whole or in part. The judgment of the court shall be subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of Title 28.

[1] So in original. Probably should read "by".

AMENDMENTS

1975—Pub. L. 94–142, § 5(a), effective Oct. 1, 1977, completely revised the section so as to incorporate within its provisions updated features which any State plan must have when submitted to the Commissioner through its State educational agency and so as to strike out provisions covering the administrative proceedings and judicial review attendant upon the submission of a State plan. See, now, sections 1414 et seq. of this title.

1974—Subsec. (a). Pub. L. 93–380, § 614(c), substituted in first sentence "is entitled to receive payments" for "desires ot receive grants", effective for fiscal years ending June 30, 1975, and 1976, for the period beginning July 1, 1976, and ending Sept. 30, 1976, and for the fiscal year ending Sept. 30, 1977.

Subsec. (a)(1). Pub. L. 93–380, §§ 615(b), 843(b)(2), substituted $200,000 for $100,000 and struck out "the Commonwealth of Puerto Rico," preceding "Guam".

Subsec. (a)(12), (13). Pub. L. 93–380, § 614(d), added pars. (12) and (13).

Subsec. (b). Pub. L. 93–380, § 615(c)(1), added subsec. (b). Former subsec. (b) redesignated (c).

Subsecs. (c), (d). Pub. L. 93–380, § 615(c)(1), redesignated former subsecs. (b) and (c) as (c) and (d). Former subsec. (d) redesignated (e).

Subsec. (e). Pub. L. 93–380, § 615(c)(1), (2), redesignated former subsec. (d) as (e) and substituted in par. (1) reference to subsection "d" for "c" of this section.

EFFECTIVE DATE OF 1975 AMENDMENT

Complete revision of this section by section 5(a) of Pub. L. 94–142 effective Oct. 1, 1977, see section 8(c)

of Pub. L. 94–142, set out as a note under section 1411 of this title.

EFFECTIVE DATE OF 1974 AMENDMENT

Section 614(c) of Pub. L. 93–380, which, as originally enacted, provided that the amendment of subsec. (a) of this section by section 614(c) of Pub. L. 93–380 was effective for fiscal year 1975 only, was amended by section 2(b)(3) of Pub. L. 94–142 to extend the life of the amendment by section 614(c) of Pub. L. 93–380 by making it effective for the fiscal years ending June 30, 1975, and 1976, the period beginning July 1, 1976, and ending Sept. 30, 1976, and the fiscal year ending Sept. 30, 1977.

Amendment of subsec. (a)(1) by Pub. L. 93–380 effective after June 30, 1975, see section 843(b) of Pub. L. 93–380, set out as a note under section 1412 of this title.

Enactment of subsec. (a)(12), (13) of this section by section 614(d) of Pub. L. 93–380 effective on and after sixtieth day after Aug. 21, 1974, see section 2(c) of Pub. L. 93–380, set out as a note under section 241b of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is refered to in sections 1411, 1412, 1414 to 1416, 1419 of this title.

§ 1414. Application.

(a) Requisite features.

A local educational agency or an intermediate educational unit which desires to receive payments under section 1411(d) of this title for any fiscal year shall submit an application to the appropriate State educational agency. Such application shall—

(1) provide satisfactory assurance that payments under this subchapter will be used for excess costs directly attributable to programs which—

(A) provide that all children residing within the jurisdiction of the local educational agency or the intermediate educational unit who are handicapped, regardless of the severity of their handicap, and are in need of special education and related services will be identified, located, and evaluated, and provide for the inclusion of a practical method of determining which children are currently receiving needed special education and related services and which children are not currently receiving such education and services;

(B) establish policies and procedures in accaccordance with detailed criteria prescribed under under section 141(c) of this title;

(C) establish a goal of providing full educational opportunities to all handicapped children, including—

(i) procedures for the implementation and use of the comprehensive system of personnel development established by the State educational agency under section 1413(a)(3) of this title;

(ii) the provision of, and the establishment of priorities for providing, a free appropriate public education to all handicapped children, first with respect to handicapped children who are not receiving an education, and second with respect to handicapped children, within each disability, with the most severe handicaps who are receiving an inadequate education;

(iii) the participation and consultation of the parents or guardian of such children; and

(iv) to the maximum extent practicable and consistent with the provisions of section 1412(5)(B) of this title, the provision of special services to enable such children to participate in regular educational programs;

(D) establish a detailed timetable for accompublishing the goal described in subclause (C); and

(E) provide a description of the kind and number of facilities, personnel, and services necessary to meet the goal described in subclause (C);

(2) provide satisfactory assurance that (A) the control of funds provided under this subchapter, and title to property derived from such funds, shall be in a public agency for the uses and purposes provided in this subchapter, and that a public agency will administer such funds and property, (B) Federal funds expended by local educational agencies and intermediate educational units for programs under this subchapter (i) shall be used to pay only the excess costs directly attributable to the education of handicapped children, and (ii) shall be used to supplement and, to the extent practicable, increase the level of State and local funds expended for the education of handicapped children, and in no case to supplant such State and local funds, and (C) State and local funds will be used in the jurisdiction of the local educational agency or intermediate educational unit to provide services in program areas which, taken as a whole, are at least comparable to services being provided in areas of such jurisdiction which are not receiving funds under this subchapter;

(3)(A) provide for furnishing such information (which, in the case of reports relating to performance, is in accordance with specific performance criteria related to program objectives), as may be necessary to enable the State educational agency to perform its duties under this subchapter, including information relating to the educational achievement of handicapped children partcipating in programs carried out under this subchapter; and

(B) provide for keeping such records, and provide for affording such access to such records, as the State educational agency may find necessary to assure the correctness and verification of such information furnished under subclause (A);

(4) provide for making the application and all pertinent documents related to such application available to parents, guardians, and other members of the general public, and provide that all evaluations and reports required under clause (3) shall be public information;

(5) provide assurances that the local educational agency or intermediate educational unit will establish, or revise, whichever is appropriate, an individualized education program for each handicapped child at the beginning of each school year and will then review and, if appropriate revise, its provisions periodically, but not less than annually;

(6) provide satisfactory assurance that policies and programs established and administered by the local educational agency or intermediate educational unit shall be consistent with the provisions of paragraph (1) through paragraph (7) of section 1412 and section 1413(a) of this title; and

(7) provide satisfactory assurance that the local educational agency or intermediate educational unit will establish and maintain procedural safeguards in accordance with the provisions of sections 1412(5)(B), 1412(5)(C), and 1415 of this title.

(b) Approval by State educational agencies of applications submitted by local educational agencies or intermediate educational units; notice and hearing.

(1) A State educational agency shall approve any application submitted by a local educational agency or an intermediate educational unit under subsection (a) of this section if the State educational agency determines that such application meets the requirements of subsection (a) of this section, except that no such application may be approved until the State plan submitted by such State educational agency under subsection (a) of this section is approved by the Commissioner under section 1413(c) of this title. A State educational agency shall disapprove any application submitted by a local educational agency or an intermediate educational unit under subsection (a) of this section if the State educational agency determines that such application does not meet the requirements of subsection (a) of this section.

(2)(A) Whenever a State educational agency, after reasonable notice and opportunity for a hearing, finds that a local educational agency or an intermediate educational unit, in the administration of an application approved by the State educational agency under paragraph (1), has failed to comply with any requirement set forth in such application, the State educational agency, after giving appropriate notice to the local educational agency or the intermediate educational unit, shall—

(i) make no further payments to such local educational agency or such intermediate educational unit under section 1420 of this title until the State educational agency is satisfied that there is no longer any failure to comply with the requirement involved; or

(ii) take such finding into account in its review of any application made by such local educational agency or such intermediate educational unit under subsection (a) of this section.

(B) The provisions of the last sentence of section 1416(a) of this title shall apply to any local educational agency or any intermediate educational unit receiving any notification from a State educational agency under this paragraph.

(3) In carrying out its functions under paragraph (1), each State educational agency shall consider any decision made pursuant to a hearing held under section 1415 of this title which is adverse to the local educational agency or intermediate educational unit involved in such decision.

(c) Consolidated applications.

(1) A State educational agency may, for purposes of the consideration and approval of applications under this section, require local educational agencies to submit a consolidated application for payments if such State educational agency determines that any individual application submitted by any such local educational agency will be disapproved because such local educational agency is ineligible to receive payments because of the application of section 1411(c)(4)(A)(i) of this title or such local educational agency would be unable to establish and maintain programs of sufficient size and scope to effectively meet the educational needs of handicapped children.

(2)(A) In any case in which a consolidated application of local educational agencies is approved by a State educational agency under paragraph (1), the payments which such local educational agencies may receive shall be equal to the sum of payments to which each such local educational agency would be entitled under section 1411(d) of this title if an individual application of any such local educational agency had been approved.

(B) The State educational agency shall prescribe rules and regulations with respect to consolidated applications submitted under this subsection which are consistent with the provisions of paragraph (1) through paragraph (7) of section 1412 and section 1413(a) of this title and which provide participating local educational agencies with joint responsibilities for implementing programs receiving payments under this subchapter.

(C) In any case in which an intermediate educational unit is required pursuant to State law to carry out the provisions of this subchapter, the joint responsibilities given to local educational agencies under subparagraph (B) shall not apply to the administration and disbursement of any payments received by such intermediate educational unit. Such responsibilities shall be carried out exclusively by such intermediate educational unit.

(d) Special education and related services provided directly by State educational agencies; regional or State centers.

Whenever a State educational agency determines that a local educational agency—

(1) is unable or unwilling to establish and maintain programs of free appropriate public education which meet the requirements established in subsection (a) of this section;

(2) is unable or unwilling to be consolidated with other local educational agencies in order to establish and maintain such programs; or

(3) has one or more handicapped children who can best be served by a regional or State center designed to meet the needs of such children;

the State educational agency shall use the payments which would have been available to such local educational agency to provide special education and related services directly to handicapped children residing in the area served by such local educational agency. The State educational agency may provide such education and services in such manner, and at such locations (including regional or State centers), as it considers appropriate, except that the manner in whch such education and services are provided shall be consistent with the requirements of this subchapter.

(e) Reallocation of funds.

Whenever a State educational agency determines that a local educational agency is adequately providing a free appropriate public education to all handicapped children residing in the area served by such agency with State and local funds otherwise available to such agency, the State educational agency

may reallocate funds (or such portion of those funds as may not be required to provide such education and services) made available to such agency, pursuant to section 1411(d) of this title, to such other local educational agencies within the State as are not adequately providing special education and related services to all handicapped children residing in the areas served by such other local educational agencies.

(f) Programs using State or local funds.

Notwithstanding the provisions of subsection (a)(2)(B)(ii) of this section, any local educational agency which is required to carry out any program for the education of handicapped children pursuant to a State law shall be entitled to receive payments under section 1411(d) of this title for use in carrying out such program, except that such payments may not be used to reduce the level of expenditures for such program made by such local educational agency from State or local funds below the level of such expenditures for the fiscal year prior to the fiscal year for which such local educational agency seeks such payments. (As amended Pub. L. 94–142, § 5(a), Nov. 29, 1975, 89 Stat. 784.)

TEXT OF SECTION EFFECTIVE THROUGH SEPT. 30, 1977

Section as set out above is not effective until Oct. 1, 1977. For the period through the end of the fiscal year ending Sept. 30, 1977, this section reads as follows:

§1414. Payments; matching funds.

From the amounts allotted to each State under this subchapter, the Commissioner shall pay to that State an amount equal to the amount expended by the State in carrying out its State plan.

AMENDMENTS

1975—Pub. L. 94–142, effective Oct. 1, 1977, completely revised the section so as to incorporate within its provisions the process through which local educational agencies and intermediate educational unit desiring to receive payments submit applications to the appropriate State educational agency and so as to eliminate former provisions covering State matching funds.

EFFECTIVE DATE OF 1975 AMENDMENT

Complete revision of this section by section 5(a) of Pub. L. 94–142 effective Oct. 1, 1977, see section 8(c) of Pub. L. 94–142, set out as a note under section 1411 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1401, 1411 to 1413, 1418, 1420 of this title.

§ 1415. Procedural safeguards.

(a) Establishment and maintenance.

Any State educational agency, any local educational agency, and any intermediate educational unit which receives assistance under this subchapter shall establish and maintain procedures in accordance with subsection (b) through subsection (e) of this section to assure that handicapped children and their parents or guardians are guaranteed procedural safeguards with respect to the provision of free appropriate public education by such agencies and units.

(b) Required procedures; hearing.

(1) The procedures required by this section shall include, but shall not be limited to—

(A) an opportunity for the parents or guardian of a handicapped child to examine all relevant records with respect to the identification, evaluation, and educational placement of the child, and the provision of a free appropriate public education to such child, and to obtain an independent educational evaluation of the child;

(B) procedures to protect the rights of the child whenever the parents or guardian of the child are not known, unavailable, or the child is a ward of the State, including the assignment of an individual (who shall not be an employee of the State educational agency, local educational agency, or intermediate educational unit involved in the education or care of the child) to act as a surrogate for the parents or guardian;

(C) written prior notice to the parents or guardian of the child whenever such agency or unit—

(i) proposes to initiate or change, or

(ii) refuses to initiate or change,

the identification, evaluation, or educational placement of the child or the provision of a free appropriate public education to the child;

(D) procedures designed to assure that the notice required by clause (C) fully inform the parents or guardian, in the parents' or guardian's native language, unless it clearly is not feasible to do so, of all procedures available pursuant to this section; and

(E) an opportunity to present complaints with respect to any matter relating to the identification, evaluation, or educational placement of the child, or the provision of a free appropriate public education to such child.

(2) Whenever a complaint has been received under paragraph (1) of this subsection, the parents or guardian shall have an opportunity for an impartial due process hearing which shall be conducted by the State educational agency or by the local educational agency or intermediate educational unit, as determined by State law or by the State educational agency. No hearing conducted pursuant to the requirements of this paragraph shall be conducted by an employee of such agency or unit involved in the education or care of the child.

(c) Review of local decision by State educational agency.

If the hearing required in paragraph (2) of subsection (b) of this section is conducted by a local educational agency or an intermediate educational unit, any party aggrieved by the findings and decision rendered in such a hearing may appeal to the State educational agency which shall conduct an impartial review of such hearing. The officer conducting such review shall make an independent decision upon completion of such review.

(d) Enumeration of rights accorded parties to hearings.

Any party to any hearing conducted pursuant to subsections (b) and (c) of this section shall be accorded (1) the right to be accompanied and advised by counsel and by individuals with special knowledge or training with respect to the problems of handicapped children, (2) the right to present evidence and confront, cross-examine, and compel

the attendance of witnesses, (3) the right to a written or electronic verbatim record of such hearing, and (4) the right to written findings of fact and decisions (which findings and decisions shall also be transmitted to the advisory panel established pursuant to section 1413(a)(12) of this title).

(e) Civil action; jurisdiction.

(1) A decision made in a hearing conducted pursuant to paragraph (2) of subsection (b) of this section shall be final, except that any party involved in such hearing may appeal such decision under the provisions of subsection (c) and paragraph (2) of this subsection. A decision made under subsection (c) of this section shall be final, except that any party may bring an action under paragraph (2) of this subsection.

(2) Any party aggrieved by the findings and decision made under subsection (b) of this section who does not have the right to an appeal under subsection (c) of this section, and any party aggrieved by the findings and decision under subsection (c) of this section, shall have the right to bring a civil action with respect to the complaint presented pursuant to this section, which action may be brought in any State court of competent jurisdiction or in a district court of the United States without regard to the amount in controversy. In any action brought under this paragraph the court shall receive the records of the administrative proceedings, shall hear additional evidence at the request of a party, and, basing its decision on the preponderance of the evidence, shall grant such relief as the court determines is appropriate.

(3) During the pendency of any proceedings conducted pursuant to this section, unless the State or local educational agency and the parents or guardian otherwise agree, the child shall remain in the then current educational placement of such child, or, if applying for initial admission to a public school, shall, with the consent of the parents or guardian, be placed in the public school program until all such proceedings have been completed.

(4) The district courts of the United States shall have jurisdiction of actions brought under this subsection without regard to the amount in controversy. (Pub. L. 91–230, title VI, § 615, as added Pub. L. 94–142, § 5(a), Nov. 29, 1975, 89 Stat. 788.)

EFFECTIVE DATE

Section effective Oct. 1, 1977, see section 8 of Pub. L. 94–142, set out as a note under section 1411 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1412, 1414 of this title.

§ 1416. Withholding of payments; judicial review.

(a) Whenever the Commissioner, after reasonable notice and opportunity for hearing to the State educational agency involved (and to any local educational agency or intermediate educational unit affected by any failure described in clause (2)), finds—

(1) that there has been a failure to comply substantially with any provision of section 1412 or section 1413 of this title, or

(2) that in the administration of the State plan there is a failure to comply with any provision of this subchapter or with any requirements set forth in the application of a local educational agency or intermediate educational unit approved by the State educational agency pursuant to the State plan,

the Commissioner (A) shall, after notifying the State educational agency, withhold any further payments to the State under this subchapter, and (B) may, after notifying the State educational agency, withhold further payments to the State under the Federal programs specified in section 1413(a)(2) of this title within his jurisdiction, to the extent that funds under such programs are available for the provision of assistance for the education of handicapped children. If the Commissioner withholds further payments under clause (A) or clause (B) he may determine that such withholding will be limited to programs or projects under the State plan, or portions thereof, affected by the failure, or that the State educational agency shall not make further payments under this subchapter to specified local educational agencies or intermediate educational units affected by the failure. Until the Commissioner is satisfied that there is no longer any failure to comply with the provisions of this subchapter as specified in clause (1) or clause (2), no further payments shall be made to the State under this subchapter or under the Federal programs specified in section 1413(a)(2) of this title within his jurisdiction to the extent that funds under such programs are available for the provision of assistance for the education of handicapped children, or payments by the State educational agency under this subchapter shall be limited to local educational agencies and intermediate educational units whose actions did not cause or were not involved in the failure, as the case may be. Any State educational agency, local educational agency, or intermediate educational unit in receipt of a notice pursuant to the first sentence of this subsection shall, by means of a public notice, take such measures as may be necessary to bring the pendency of an action pursuant to this subsection to the attention of the public within the jurisdiction of such agency or unit.

(b)(1) If any State is dissatisfied with the Commissioner's final action with respect to its State plan submitted under section 1413 of this title, such State may, within sixty days after notice of such action, file with the United States court of appeals for the circuit in which such State is located a petition for review of that action. A copy of the petition shall be forthwith transmitted by the clerk of the court to the Commissioner. The Commissioner thereupon shall file in the court the record of the proceedings on which he based his action, as provided in section 2112 of Title 28.

(2) The findings of fact by the Commissioner, if supported by substantial evidence, shall be conclusive; but the court, for good cause shown, may remand the case to the Commissioner to take further evidence, and the Commissioner may thereupon make new or modified findings of fact and may modify his previous action, and shall file in the court the record of the further proceedings. Such

new or modified findings of fact shall likewise be conclusive if supported by substantial evidence.

(3) Upon the filing of such petition, the court shall have jurisdiction to affirm the action of the Commissioner or to set it aside, in whole or in part. The judgment of the court shall be subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of Title 28. (Pub. L. 91–230, title VI, § 616, as added Pub. L. 94–142, § 5(a), Nov. 29, 1975, 89 Stat. 789.)

EFFECTIVE DATE

Section effective Oct. 1, 1977, see section 8 of Pub. L. 94–142, set out as a note under section 1411 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1411, 1414 of this title.

§ 1417. Administration.

(a) Duties of Commissioner.

(1) In carrying out his duties under this subchapter, the Commissioner shall—

(A) cooperate with, and furnish all technical assistance necessary, directly or by grant or contract, to the States in matters relating to the education of handicapped children and the execution of the provisions of this subchapter;

(B) provide such short-term training programs and institutes as are necessary;

(C) disseminate information, and otherwise promote the education of all handicapped children within the States; and

(D) assure that each State shall, within one year after November 29, 1975, provide certification of the actual number of handicapped children receiving special education and related services in such State.

(2) As soon as practicable after November 29, 1975, the Commissioner shall, by regulation, prescribe a uniform financial report to be utilized by State educational agencies in submitting State plans under this subchapter in order to assure equity among the States.

(b) Rules and regulations.

In carrying out the provisions of this subchapter, the Commissioner (and the Secretary, in carrying out the provisions of subsection (c) of this section) shall issue, not later than January 1, 1977, amend, and revoke such rules and regulations as may be necessary. No other less formal method of implementing such provisions is authorized.

(c) Protection of rights and privacy of parents and students.

The Secretary shall take appropriate action, in accordance with the provisions of section 1232g of this title, to assure the protection of the confidentiality of any personally identifiable data, information, and records collected or maintained by the Commissioner and by State and local educational agencies pursuant to the provisions of this subchapter.

(d) Hiring of qualified personnel.

The Commissioner is authorized to hire qualified personnel necessary to conduct data collection and evaluation activities required by subsections (b), (c) and (d) of section 1418 of this title and to carry out his duties under subsection (a)(1) of this section without regard to the provisions of Title 5 relating to appointments in the competitive service and without regard to chapter 51 and subchapter III of chapter 53 of such title relating to classification and general schedule pay rates except that no more than twenty such personnel shall be employed at any time. (Pub. L. 91–230, title VI, § 617, as added Pub. L. 94–142, § 5(a), Nov. 29, 1975, 89 Stat. 791.)

EFFECTIVE DATE

Section effective Oct. 1, 1977, except for subsecs. (a)(1)(D) and (b), which are effective Nov. 29, 1975, see section 8 of Pub. L. 94–142, set out as a note under section 1411 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1412 to 1414 of this title.

§ 1418. Evaluation.

(a) Duty of Commissioner.

The Commissioner shall measure and evaluate the impact of the program authorized under this subchapter and the effectiveness of State efforts to assure the free appropriate public education of all handicapped children.

(b) Studies and investigations.

The Commissioner shall conduct, directly or by grant or contract, such studies, investigations, and evaluations as are necessary to assure effective implementation of this subchapter. In carrying out his responsibilities under this section, the Commissioner shall—

(1) through the National Center for Education Statistics, provide to the appropriate committees of each House of the Congress and to the general public at least annually, and shall update at least annually, programmatic information concerning programs and projects assisted under this subchapter and other Federal programs supporting the education of handicapped children, and such information from State and local educational agencies and other appropriate sources necessary for the implementation of this subchapter, including—

(A) the number of handicapped children in each State, within each disability, who require special education and related services;

(B) the number of handicapped children in each State, within each disability, receiving a free appropriate public education and the number of handicapped children who need and are not receiving a free appropriate public education in each such State;

(C) the number of handicapped children in each State, within each disability, who are participating in regular educational programs, consistent with the requirements of section 1412(5)(B) and section 1414(a)(1)(C)(iv) of this title, and the number of handicapped children who have been placed in separate classes or separate school facilities, or who have been otherwise removed from the regular education environment;

(D) the number of handicapped children who are enrolled in public or private institutions in each State and who are receiving a free appropriate public education, and the number of

handicapped children who are in such institutions and who are not receiving a free appropriate public education;

(E) the amount of Federal, State, and local expenditures in each State specifically available for special education and related services; and

(F) the number of personnel, by disability category, employed in the education of handicapped children, and the estimated number of additional personnel needed to adequately carry out the policy established by this chapter; and

(2) provide for the evaluation of programs and projects assisted under this subchapter through—

(A) the development of effective methods and procedures for evaluation;

(B) the testing and validation of such evaluation methods and procedures; and

(C) conducting actual evaluation studies designed to test the effectiveness of such programs and projects.

(c) Data sample.

In developing and furnishing information under subclause (E) of clause (1) of subsection (b) of this section, the Commissioner may base such information upon a sampling of data available from State agencies, including the State educational agencies, and local educational agencies.

(d) Annual reports to Congressional Committees.

(1) Not later than one hundred twenty days after the close of each fiscal year, the Commissioner shall transmit to the appropriate committees of each House of the Congress a report on the progress being made toward the provision of free appropriate public education to all handicapped children, including a detailed description of all evaluation activities conducted under subsection (b) of this section.

(2) The Commissioner shall include in each such report—

(A) an analysis and evaluation of the effectiveness of procedures undertaken by each State educational agency, local educational agency, and intermediate educational unit to assure that handicapped children receive special education and related services in the least restrictive environment commensurate with their needs and to improve programs of instruction for handicapped children in day or residential facilities;

(B) any recommendations for change in the provisions of this subchapter, or any other Federal law providing support for the education of handicapped children; and

(C) an evaluation of the effectiveness of the procedures undertaken by each such agency or unit to prevent erroneous classification of children as eligible to be counted under section 1411 of this title including actions undertaken by the Commissioner to carry out provisions of this chapter relating to such erroneous classification.

In order to carry out such analyses and evaluations, the Commissioner shall conduct a statistically valid survey for assessing the effectiveness of individualized educational programs.

(e) Authorization of appropriations.

There are authorized to be appropriated for each fiscal year such sums as may be necessary to carry out the provisions of this section. (Pub. L. 91–230, title VI, § 618, as added Pub. L. 94–142, § 5(a), Nov. 29, 1975, 89 Stat. 791.)

Effective Date

Section effective Oct. 1, 1977, except for subsec. (a), which is effective Nov. 29, 1975, see section 8 of Pub. L. 94–142, set out as a note under section 1411 of this title.

Section Referred to in Other Sections

This section is referred to in sections 1413, 1417 of this title.

§ 1419. Incentive grants.

(a) Authority to make grants.

The Commissioner shall make a grant to any State which—

(1) has met the eligibility requirements of section 1412 of this title;

(2) has a State plan approved under section 1413 of this title; and

(3) provides special education and related services to handicapped children aged three to five, inclusive, who are counted for the purposes of section 1411(a)(1)(A) of this title.

The maximum amount of the grant for each fiscal year which a State may receive under this section shall be $300 for each such child in that State.

(b) Application.

Each State which—

(1) has met the eligibility requirements of section 1412 of this title,

(2) has a State plan approved under section 1413 of this title, and

(3) desires to receive a grant under this section, shall make an application to the Commissioner at such time, in such manner, and containing or accompanied by such information, as the Commissioner may reasonably require.

(c) Payment.

The Commissioner shall pay to each State having an application approved under subsection (b) of this section the amount to which the State is entitled under this section, which amount shall be used for the purpose of providing the services specified in clause (3) of subsection (a) of this section.

(d) Ratable reduction or increase of payments.

If the sums appropriated for any fiscal year for making payments to States under this section are not sufficient to pay in full the maximum amounts which all States may receive under this subchapter for such fiscal year, the maximum amounts which all States may receive under this subchapter for such fiscal year shall be ratably reduced. In case additional funds become available for making such payments for any fiscal year during which the preceding sentence is applicable, such reduced amounts shall be increased on the same basis as they were reduced.

(e) Authorization of appropriations.

In addition to the sums necessary to pay the entitlements under section 1411 of this title, there are authorized to be appropriated for each fiscal year such sums as may be necessary to carry out the provisions of this section. (Pub. L. 91–230, title VI, § 619, as added Pub. L. 94–142, § 5(a), Nov. 29, 1975, 89 Stat. 793.)

EFFECTIVE DATE

Section effective Oct. 1, 1977, see section 8 of Pub. L. 94–142, set out as a note under section 1411 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1411 of this title.

§ 1420. Payments.

(a) The Commissioner shall make payments to each State in amounts which the State educational agency of such State is eligible to receive under this subchapter. Any State educational agency receiving payments under this subsection shall distribute payments to the local educational agencies and intermediate educational units of such State in amounts which such agencies and units are eligible to receive under this subchapter after the State educational agency has approved applications of such agencies or units for payments in accordance with section 1414(b) of this title.

(b) Payments under this subchapter may be made in advance or by way of reimbursement and in such installments as the Commissioner may determine necessary. (Pub. L. 91–230, title VI, § 620, as added Pub. L. 94–142, § 5(a), Nov. 29, 1975, 89 Stat. 793.)

EFFECTIVE DATE

Section effective Oct. 1, 1977, see section 8 of Pub. L. 94–142, set out as a note under section 1411 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1414 of this title.

SUBCHAPTER III.—CENTERS AND SERVICES TO MEET SPECIAL NEEDS OF THE HANDICAPPED

§ 1421. Regional resource centers.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1426 of this title.

§ 1422. Model centers and services for deaf-blind children.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1426 of this title.

§ 1423. Experimental preschool and early education programs for handicapped children.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1426 of this title.

§ 1424a. Regional education programs.

(a) Grant and contract authority; development and operation of vocational, technical, postsecondary, or adult education programs.

The Commissioner is authorized to make grants to or contracts with institutions of higher education, including junior and community colleges, vocational and technical institutions, and other appropriate nonprofit educational agencies for the development and operation of specially designed or modified programs of vocational, technical, postsecondary, or adult education for deaf or other handicapped persons.

(b) Priority of programs.

In making grants or contracts authorized by this section the Commissioner shall give priority consideration to—

(1) programs serving multistate regions or large population centers;

(2) programs adapting existing programs of vocational, technical, postsecondary, or adult education to the special needs of handicapped persons; and

(3) programs designed to serve areas where a need for such services is clearly demonstrated.

(c) "Handicapped persons" defined.

For purposes of this section, the term "handicapped persons" means persons who are mentally retarded, hard of hearing, deaf, speech impaired, visually handicapped, emotionally disturbed, crippled, or in other ways health impaired and by reason thereof require special education programming and related services. (Pub. L. 91–230, title VI, § 625, as added Pub. L. 93–380, title VI, § 616, Aug. 21, 1974, 88 Stat. 584.)

EFFECTIVE DATE

Section effective on and after sixtieth day after Aug. 21, 1974, see section 2(c) of Pub. L. 93–380, set out as a note under section 241b of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1426 of this title.

§ 1425. Evaluations.

Pub. L. 93–380, title VI, § 616, Aug. 21, 1974, 88 Stat. 584 redesignated section 625 as section 626 of Pub. L. 91–230, title VI.

§ 1426. Authorization of appropriations.

There are authorized to be appropriated to carry out the provisions of section 1421 of this title, $12,500,000 for the fiscal year ending June 30, 1975, $18,000,000 for the fiscal year ending June 30, 1976, and $19,000,000 for the fiscal year ending June 30, 1977. There are authorized to be appropriated to carry out the provisions of section 1422 of this title, $15,000,000 for the fiscal year ending June 30, 1975, $20,000,000 for the fiscal year ending June 30, 1976, and for the succeeeding fiscal year. There are authorized to be appropriated to carry out the provisions of section 1423 of this title, $25,500,000 for the fiscal year ending June 30, 1975, $36,000,000 for the fiscal year ending June 30, 1976, and $38,000,000 for the fiscal year ending June 30, 1977. There are authorized to be appropriated to carry out the provisions of section 1424a of this title, $1,000,000 for the fiscal year ending June 30, 1975, and such sums as may be necessary for each of the two succeeding fiscal years. (Pub. L. 91–230, title VI, § 627, formerly 626, Apr. 13, 1970, 84 Stat. 184, renumbered and amended Pub. L. 93–380, title VI, §§ 616, 617, Aug. 21, 1974, 88 Stat. 584.)

AMENDMENTS

1974—Pub. L. 93–380, § 617, substituted appropriations authorization for carrying out: section 1421 of this title of $12,500,000; $18,000,000; and $19,000,000 for fiscal years ending June 30, 1975, 1976, and 1977; section 1422 of this title of $15,000,000; $20,000,000; and $20,000,000 for fiscal years ending June 30, 1975, 1976, 1977; section 1423 of this title of $25,500,000; $36,000,000; and $38,000,000 for fiscal years ending June 30, 1975, 1976, and 1977; and section 1424a of this title of $1,000,000 for fiscal year ending June 30, 1975, and necessary sums for fiscal years ending June 30, 1976, and 1977 for prior authorization of $36,500,000; $51,500,000; and $66,500,000 for fiscal years ending June 30, 1971, 1972, and 1973, for carrying out this subchapter.

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment by Pub. L. 93–380 effective on and after sixtieth day after Aug. 21, 1974, see section 2(c) of Pub. L. 93–380, set out as a note under section 241b of this title.

SUBCHAPTER IV.—TRAINING PERSONNEL FOR THE EDUCATION OF THE HANDICAPPED

§ 1433. Grants or contracts to improve recruiting of educational personnel and dissemination of information concerning educational opportunities for the handicapped.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1436 of this title.

§ 1436. Authorization of appropriations.

There are authorized to be appropriated for carrying out the provisions of this subchapter (other than section 1433 of this title) $45,000,000 for the fiscal year ending June 30, 1975, $52,000,000 for the fiscal year ending June 30, 1976, and $54,000,000 for the fiscal year ending June 30, 1977. There are authorized to be appropriated to carry out the provisions of section 1433 of this title, $500,000 for each of the fiscal years ending June 30, 1975, and June 30, 1976, and $1,000,000 for the fiscal year ending June 30, 1977. (As amended Pub. L. 93–380, title VI, § 618, Aug. 21, 1974, 88 Stat. 584.)

AMENDMENTS

1974—Pub. L. 93–380 substituted appropriations authorization for carrying out this subchapter and section 1433 of this title of $45,000,000; $52,000,000; and $54,000,000, and $500,000; $500,000; and $1,000,000 for fiscal years ending June 30, 1975, 1976, and 1977, for prior authorization of $69,500,000; $87,000,000; and $103,500,000 for carrying out this subchapter for fiscal years ending June 30, 1971, 1972, and 1973.

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment by Pub. L. 93–380 effective on and after sixtieth day after Aug. 21, 1974, see section 2(c) of Pub. L. 93–380, set out as a note under section 241(b) of this title.

SUBCHAPTER V.—RESEARCH IN THE EDUCATION OF THE HANDICAPPED

§ 1444. Authorization of appropriations.

For the purpose of carrying out this subchapter, there are authorized to be appropriated $15,000,000 for the fiscal year ending June 30, 1975, $20,000,000 for each of the fiscal years ending June 30, 1976, and June 30, 1977. (As amended Pub. L. 93–380, title VI, § 619, Aug. 21, 1974, 88 Stat. 585.)

AMENDMENTS

1974—Pub. L. 93–380 substituted appropriations authorization of $15,000,000; $20,000,000; and $20,000,000 for fiscal years ending June 30, 1975, 1976, and 1977, for prior authorization of $27,000,000; $35,500,000; and $45,000,000; for fiscal years ending June 30, 1971, 1972, and 1973.

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment by Pub. L. 93–380 effective on and after sixtieth day after Aug. 21, 1974, see section 2(c) of Pub. L. 93–380, set out as a note under section 241b of this title.

SUBCHAPTER VI.—INSTRUCTIONAL MEDIA FOR THE HANDICAPPED

§ 1452. Captioned films and educational media for handicapped persons.

* * * * *

(b) Authority of Commissioner.

The Commissioner is authorized to—

(1) acquire films (or rights thereto) and other educational media by purchase, lease, or gift;

(2) acquire by lease or purchased[1] equipment necessary to the administration of this subchapter;

(3) provide, by grant and contract, for the captioning of films;

(4) provide, by grant and contract, for the distribution of captioned films and other educational media and equipment through State schools for the handicapped and such other agencies as the Commissioner may deem appropriate to serve as local or regional centers for such distribution;

(5) provide, by grant and contract, for the conduct of research in the use of educational and training films and other educational media for the handicapped, for the production and distribution of educational and training films and other educational media for the handicapped and the training of persons in the use of such films and media, including the payment to those persons of such stipends (including allowances for travel and other expenses for such persons and their dependents) as he may determine, which shall be consistent with prevailing practices under comparable federally supported programs;

(6) utilize the facilities and services of other governmental agencies; and

(7) accept gifts, contributions, and voluntary and uncompensated services of individuals and organizations.

(As amended Pub. L. 93–380, title VI, § 620(1), Aug. 21, 1974, 88 Stat. 585.)

AMENDMENTS

1974—Subsec. (b)(3)–(5). Pub. L. 93–380 inserted after "provide" the words ", by grant and contract,".

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment by Pub. L. 93–380 effective on and after sixtieth day after Aug. 21, 1974, see section 2(c) of Pub. L. 93–380, set out as a note under section 241b of this title.

§ 1453. Centers on educational media and materials for the handicapped.

(a) Establishment and operation.

The Secretary is authorized to enter into agreements with institutions of higher education, State and local educational agencies, or other appropriate nonprofit agencies, for the establishment and operation of centers on educational media and materials for the handicapped, which together will provide a comprehensive program of activities to facilitate the use of new educational technology in education programs for handicapped persons, including designing, developing, and adapting instructional materials, and such other activities consistent with the purposes of this subchapter as the Secretary may prescribe in such agreements. Any such agreement shall—

(1) provide that Federal funds paid to a center will be used solely for such purposes as are set forth in the agreement; and

[1] So in original.

(2) authorize the center involved, subject to prior approval by the Secretary, to contract with public and private agencies and organizations for demonstration projects.

(b) Preferences to qualified institutions and agencies.

In considering proposals to enter into agreements under this section, the Secretary shall give preference to institutions and agencies—

(1) which have demonstrated the capabilities necessary for the development and evaluation of educational media for the handicapped; and

(2) which can serve the educational technology needs of the Model High School for the Deaf (established under Public Law 89–694).

(c) Annual report to Congress.

The Secretary shall make an annual report on activities carried out under this section which shall be transmitted to the Congress. (As amended Pub. L. 94–142, § 6(b), Nov. 29, 1975, 89 Stat. 795.)

REFERENCES IN TEXT

Pub. L. 89–694, referred to in subsec. (b)(2), is the Model Secondary School Act for the Deaf (Pub. L. 89–694, §§ 1–4, Oct. 15, 1966, 80 Stat. 1027), and is not classified to the Code.

AMENDMENTS

1975—Subsec. (a). Pub. L. 94–142 substituted provisions for the establishment and operation of an unspecified number of centers on educational media and materials for the handicapped and the agreements with institutions of higher education, State and local educational agencies, and other appropriate nonprofit agencies for the establishment of those centers for provisions authorizing the establishment of a single National Center on Educational Media and Materials for the Handicapped and the agreement with an institution of higher education for the establishment and operation of that Center, and transferred to subsec. (c) provisions calling for an annual report to Congress.

Subsec. (b). Pub. L. 94–142 substituted references to "institutions and agencies" for references to "institutions".

Subsec. (c). Pub. L. 94–142 added subsec. (b), which incorporated therein provisions for an annual report to Congress formerly set out in subsec. (a).

EFFECTIVE DATE OF 1975 AMENDMENT

Amendment by Pub. L. 94–142 effective Nov. 29, 1975, see section 8(b) of Pub. L. 94–142, set out as a note under section 1411 of this title.

§ 1454. Authorization of appropriations.

For the purposes of carrying out this subchapter there are hereby authorized to be appropriated not to exceed $18,000,000 for the fiscal year ending June 30, 1975, and $22,000,000 for the fiscal year ending June 30, 1976, and for each succeeding fiscal year thereafter. (As amended Pub. L. 93–380, title VI, § 620(2), Aug. 21, 1974, 88 Stat. 585.)

AMENDMENTS

1974—Pub. L. 93–380 substituted appropriations authorization of $18,000,000; and $22,000,000 for fiscal years ending June 30, 1975, and 1976 and thereafter for prior authorization of $12,500,000; $15,000,000; and $20,000,000 for fiscal years ending June 30, 1971, 1972, and 1973 and thereafter.

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment by Pub. L. 93–380 effective on and after sixtieth day after Aug. 21, 1974, see section 2(c) of Pub. L. 93–380, set out as a note under section 241b of this title.

SUBCHAPTER VII.—SPECIAL PROGRAMS FOR CHILDREN WITH SPECIFIC LEARNING DISABILITIES

§ 1461. Research, training, and model centers.

* * * * *

(c) Authorization of appropriations.

For the purpose of making grants and contracts under this section there are authorized to be appropriated $10,000,000 for the fiscal year ending June 30, 1975, $20,000,000 for each of the fiscal years ending June 30, 1976, and June 30, 1977. (As amended Pub. L. 93–380, title VI, § 621, Aug. 21, 1974, 88 Stat. 585.)

AMENDMENTS

1974—Subsec. (c). Pub. L. 93–380 substituted appropriations authorization of $10,000,000; $20,000,000; and $20,0000,000 for fiscal years ending June 30, 1975, 1976, and 1977, for prior authorization of $12,000,000; $20,000,000; $31,000,000; and $31,000,000 for fiscal years ending June 30, 1970, 1971, 1972, and 1973.

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment by Pub. L. 93–380 effective on and after sixtieth day after Aug. 21, 1974, see section 2(c) of Pub. L. 93–380, set out as a note under section 241b of this title.

Chapter 34.—NATIONAL COMMISSION ON LIBRARIES AND INFORMATION SCIENCE

§ 1501. Congressional statement of policy.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1504 of this title.

§ 1504. Functions and powers.

(a) Advice to President and Congress; studies and surveys; plans; annual report.

The Commission shall have the primary responsibility for developing or recommending overall plans for, and advising the appropriate governments and agencies on, the policy set forth in section 1501 of this title. In carrying out that responsibility, the Commission shall—

(1) advise the President and the Congress on the implementation of national policy by such statements, presentations, and reports as it deems appropriate;

(2) conduct studies, surveys, and analyses of the library and informational needs of the Nation, including the special library and informational needs of rural areas, of economically, socially, or culturally deprived persons, and of elderly persons, and the means by which these needs may be met through information centers, through the libraries of elementary and secondary schools and institutions of higher education, and through public, research, special, and other types of libraries;

* * * * *

(As amended Pub. L. 93–29, title VIII, § 802(a), May 3, 1973, 87 Stat. 59.)

AMENDMENTS

1973—Subsec. (a)(2). Pub. L. 93–29 required the Commission to conduct studies, surveys, and analyses of the special library and informational needs of elderly persons.

§ 1505. Membership.

(a) Appointment; terms of office; Chairman; vacancies.

The Commission shall be composed of the Librarian of Congress and fourteen members appointed by

the President, by and with the advice and consent of the Senate. Five members of the Commission shall be professional librarians or information specialists, and the remainder shall be persons having special competence or interest in the needs of our society for library and information services, at least one of whom shall be knowledgeable with respect the technological aspects of library and information services and sciences, and at least one other of whom shall be knowledgeable with respect to the library and information service and science needs of the elderly. One of the members of the Commission shall be designated by the President as Chairman of the Commission. The terms of office of the appointive members of the Commission shall be five years, except that (1) the terms of office of the members first appointed shall commence on July 20, 1970, and shall expire two at the end of one year, three at the end of two years, three at the end of three years, three at the end of four years, and three at the end of the five years, as designated by the President at the time of appointment, and (2) a member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed only for the remainder of such term.

* * * * *

(As amended Pub. L. 93–29, title VIII, § 802(b), May 3, 1973, 87 Stat. 59.)

AMENDMENTS

1973—Subsec. (a). Pub. L. 93–29 required that one of the appointees be knowledgeable with respect to the library and information service and science needs of the elderly.

Chapter 35.—ENVIRONMENTAL EDUCATION

§ 1531. Congressional declaration of findings and purpose.

* * * * *

(b) It is the purpose of this chapter to encourage and support the development of new and improved curricula to encourage understanding of policies, and support of activities designed to enhance environmental quality and maintain ecological balance; while giving due consideration to the economic considerations related thereto to demonstrate the use of such curricula in model educational programs and to evaluate the effectiveness thereof; to provide support for the initiation and maintenance programs in environmental education at the elementary and secondary levels; to disseminate curricular materials and other information for use in educational programs throughout the Nation; to provide training programs for teachers, other educational personnel, public service personnel, and community, labor, and industrial and business leaders and employees, and government employees at State, Federal, and local levels; to provide for the planning of outdoor ecological study centers; to provide for community education programs on preserving and enhancing environmental quality and maintaining ecological balance; and to provide for the preparation and distribution of materials by mass media in dealing with the environment and ecology. (As amended Pub. L. 93–278, § 4, May 10, 1974, 88 Stat. 121.)

AMENDMENTS

1974—Subsec. (b). Pub. L. 93–278 qualified the declared purpose of the chapter by requiring that due weight be given to the economic considerations involved in enhancing environmental quality and maintaining ecological balance.

SHORT TITLE

Section 1 of Pub. L. 93–278 provided: "That this Act [amending this section and sections 1532 and 1536 of this title] may be cited as the 'Environmental Education Amendments of 1974'."

§ 1532. Environmental education programs.

(a) Office of environmental education; establishment; functions; Director; compensation; definition of "environmental education".

* * * * *

(2) For the purposes of this chapter, the term "environmental education" means the educational process dealing with man's relationship with his natural and manmade surroundings, and includes the relation of population, pollution, resource allocation and depletion, conservation, transportation, technology, economic impact, and urban and rural planning to the total human environment.

* * * * *

(c) Advisory Council on Environmental Education; establishment; Chairman; membership; functions.

(1) There is hereby established an Advisory Council on Environmental Education consisting of twenty-one members appointed by the Secretary. The Secretary shall appoint one member as Chairman. The Council shall consist of persons appointed from the public and private sector with due regard to their fitness, knowledge, and experience in matters of, but not limited to, academic, scientific, medical, economic, legal, resource conservation and production, urban and regional planning, and information media activities as they relate to our society and affect our environment, and shall give due consideration to geographical representation in the appointment of such members: *Provided, however,* That the Council shall consist of not less than three ecologists and three students. Subject to section 1233g(b) of this title, the Advisory Council shall continue to exist until July 1, 1977.

* * * * *

(As amended Pub. L. 93–278, §§ 2, 5, 6, May 10, 1974, 88 Stat. 121.)

CODIFICATION

Section 5 of Pub. L. 93–278 directed the insertion of "economic impact" after "technology" in subsec. (b)(2). The amendment has been executed to subsec. (a)(2) as the probable intent of Congress since the term "technology" appears nowhere in subsec. (b)(2).

AMENDMENTS

1974—Subsec. (a)(2). Pub. L. 93–278, § 5, substituted "transportation, technology, economic impact," for "transportation, technology,".

Subsec. (c)(1). Pub. L. 93–278, §§ 2, 6, substituted "scientific, medical, economic, legal" for "scientific, medical, legal" in the sentence dealing with the qualifications of persons to be appointed to the Council, and extended the life of the Council until July 1, 1977.

TERMINATION OF ADVISORY COUNCILS

Advisory Councils in existence on January 5, 1973, to terminate not later than the expiration of the two-year period following January 5, 1973, unless, in the case of a Council established by the President or an officer of the Federal Government, such Council is renewed by appropriate action prior to the expiration of such two-year

period, or in the case of a Council established by the Congress, its duration is otherwise provided for by law, see sections 3(2) and 14 of Pub. L. 92-463, Oct. 6, 1972, 86 Stat. 770, 776, set out in the Appendix to Title 5, Government Organization and Employees.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1534 of this title.

§ 1536. Authorization of appropriations.

There is authorized to be appropriated $5,000,000 for the fiscal year ending June 30, 1971, $15,000,000 for the fiscal year ending June 30, 1972, $25,000,000 for the fiscal year ending June 30, 1973, $5,000,000 for the fiscal year ending June 30, 1975, $10,000,000 for the fiscal year ending June 30, 1976, and $15,000,000 for the fiscal year ending June 30, 1977, for carrying out the purposes of this chapter. (As amended Pub. L. 93-278, § 3, May 10, 1974, 88 Stat. 121.)

AMENDMENTS

1974—Pub. L. 93-278 authorized appropriation of $5,000,000 for the fiscal year ending June 30, 1975, $10,000,000 for the fiscal year ending June 30, 1976, and $15,000,000 for the fiscal year ending June 30, 1977.

Chapter 36.—EMERGENCY SCHOOL AID [NEW]

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CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in section 1232a of this title.

§ 1601. Congressional findings and purpose.

(a) The Congress finds that the process of eliminating or preventing minority group isolation and improving the quality of education for all children often involves the expenditure of additional funds to which local educational agencies do not have access.

(b) The purpose of this chapter is to provide financial assistance—

(1) to meet the special needs incident to the elimination of minority group segregation and discrimination among students and faculty in elementary and secondary schools;

(2) to encourage the voluntary elimination, reduction, or prevention of minority group isolation in elementary and secondary schools with substantial proportions of minority group students; and

(3) to aid school children in overcoming the educational disadvantages of minority group isolation. (Pub. L. 92-318, title VII, § 702, June 23, 1972, 86 Stat. 354.)

SHORT TITLE

Section 701 of Pub. L. 92-318 provided that: "This title [enacting this chapter] may be cited as the 'Emergency School Aid Act'."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1603, 1604, 1606, 1607, 1609, 1611, 1613, 1615 of this title.

§ 1602. Policy with respect to the application of certain provisions of Federal law.

(a) It is the policy of the United States that guidelines and criteria established pursuant to this chapter shall be applied uniformly in all regions of the United States in dealing with conditions of segregation by race in the schools of the local educational agencies of any State without regard to the origin or cause of such segregation.

(b) It is the policy of the United States that guidelines and criteria established pursuant to title VI of the Civil Rights Act of 1964 and section 2000d-5 of Title 42 shall be applied uniformly in all regions of the United States in dealing with conditions of segregation by race whether de jure or de facto in the schools of the local educational agencies of any State

without regard to the origin or cause of such segregation. (Pub. L. 92–318, title VII, § 703, June 23, 1972, 86 Stat. 354.)

REFERENCES IN TEXT

Title VI of the Civil Rights Act of 1964, referred to in subsec. (b), is classified to section 2000d et seq. of Title 42, The Public Health and Welfare.

§ 1603. Authorization of appropriations.

(a) The Assistant Secretary shall, in accordance with the provisions of this chapter, carry out a program designed to achieve the purpose set forth in section 1601(b) of this title. There are authorized to be appropriated for the purpose of carrying out this chapter, $1,000,000,000 for the fiscal year ending June 30, 1973, and $1,000,000,000 for the period ending June 30, 1976. Funds so appropriated shall remain available for obligation and expenditure during the fiscal year succeeding the fiscal year for which they are appropriated.

(b) From the sums appropriated pursuant to subsection (a) of this section for any fiscal year, the Assistant Secretary shall reserve an amount equal to 13 per centum thereof for the purposes of sections 1607 (a) and (c), 1610, and 1612 of this title, of which—

(A) not less than an amount equal to 4 percentum of such sums shall be for the purposes of section 1607(c) of this title; and

(B) not less than an amount equal to 3 per centum of such sums shall be for the purposes of section 1610 of this title.

(Pub. L. 92–318, title VII, § 704, June 23, 1972, 86 Stat. 355, amended Pub. L. 93–380, title VI, §§ 641(a), 642(a), Aug. 21, 1974, 88 Stat. 587.)

AMENDMENTS

1974—Subsec. (a). Pub. L. 93–380, § 641(a), made appropriation authorization of $1,000,000,000 available "for the priod ending June 30, 1976" rather than "for the fiscal year ending June 30, 1974".

Subsec. (b). Pub. L. 93–380, § 642(a), struck out par. (1) provisions respecting reservation by the Assistant Secretary of an amount equal to 5 per centum of sums appropriated under subsec. (a) of this section for purposes of section 1608 of this title and deleted par. (2) designation.

EFFECTIVE DATE OF 1974 AMENDMENT

Section 646 of Pub. L. 93–380 provided that: "The amendments made by and the provisions of this part [adding section 1607(a)(3) and amending sections 1603, 1605 (a), (b), 1607(b), 1608(a) prec. par. (1), 1609(c)(2), and 1619(7) of this title] shall be effective on and after July 1, 1974, and with respect to appropriations for fiscal years beginning on and after such date except that the provisions of section 641(b) [set out as a note hereunder] shall be effective only with respect to fiscal year 1977."

AUTHORIZATION LEVEL FOR FISCAL YEAR ENDING JUNE 30, 1976

Section 641(b) of Pub. L. 93–380 provided that: "With respect to the fiscal year ending June 30, 1976, the authorization level for the Emergency School Aid Act [this chapter] shall, for the purposes of section 414 of the General Education Provisions Act [section 1226a of this title], be equal to the amount appropriated for the purposes of the Emergency School Aid Act [this chapter] for the fiscal year ending June 30, 1976."

Such provision effective only with respect to fiscal year 1977, see section 646 of Pub. L. 93–380, set out as a note hereunder.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1604, 1607, 1610, 1611, 1612, 1614 of this title.

§ 1604. Apportionment among States.

(a)(1) From the sums appropriated pursuant to section 1603(a) of this title which are not reserved under section 1603(b) of this title for any fiscal year, the Assistant Secretary shall apportion to each State for grants and contracts within that State $75,000 plus an amount which bears the same ratio to such sums as to the number of minority group children aged 5–17, inclusive, in the State bears to the number of such children in all States except that the amount apportioned to any State shall not be less than $100,000. The number of such children in each State and in all of the States shall be determined by the Assistant Secretary on the basis of the most recent available data satisfactory to him.

(2) The Assistant Secretary shall, in accordance with criteria established by regulation, reserve not in excess of 15 per centum of the sums appropriated pursuant to section 1603(a) of this title for grants to, and contracts with, local educational agencies in each State pursuant to section 1605(b) of this title to be apportioned to each State in accordance with paragraph (1) of this subsection.

(3) The Assistant Secretary shall reserve 8 per centum of the sums appropriated pursuant to section 1603(a) of this title for the purpose of section 1607 (b) of this title to be apportioned to each State in accordance with paragraph (1) of this subsection.

(b)(1) The amount by which any apportionment to a State for a fiscal year under subsection (a) of this section exceeds the amount which the Assistant Secretary determines will be required for such fiscal year for programs or projects within such State shall be available for reapportionment to other States in proportion to the original apportionments to such States under subsection (a) of this section for that year, but with such proportionate amount for any such State being reduced to the extent it exceeds the sum the Assistant Secretary estimates such State needs and will be able to use for such year; and the total of such reductions shall be similarly reapportioned among the States whose proportionate amounts were not so reduced. Any amounts reapportioned to a State under this subsection during a fiscal year shall be deemed part of its apportionment under subsection (a) of this section for such year.

(2) In order to afford ample opportunity for all eligible applicants in a State to submit applications for assistance under this chapter, the Assistant Secretary shall not fix a date for reapportionment, pursuant to this subsection, of any portion of any apportionment to a State for a fiscal year which date is earlier than sixty days prior to the end of such fiscal year.

(3) Notwithstanding the provisions of paragraph (1) of this subsection, no portion of any apportionment to a State for a fiscal year shall be available for reapportionment pursuant to this subsection unless the Assistant Secretary determines that the applications for assistance under this chapter which have been filed by eligible applicants in that State for which a portion of such apportionment has not been reserved (but which would necessitate use of that portion) are applications which do not meet the requirements of this chapter, as set forth in sections 1605, 1606, and 1609 of this title, or which

set forth programs or projects of such insufficient promise for achieving the purpose of this chapter stated in section 1601(b) of this title that their approval is not warranted. (Pub. L. 92–318, title VII, § 705, June 23, 1972, 86 Stat. 355.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1606, 1607, 1614, 1619 of this title.

§ 1605. Eligibility for assistance; grant and contract authority; limitation; ineligibility, waiver; waiver application, approval; notice to congressional committees.

(a)(1) The Assistant Secretary is authorized to make a grant to, or a contract with, a local educational agency—

(A) Which is implementing a plan—

(i) which has been undertaken pursuant to a final order issued by a court of the United States, or a court of any State, or any other State agency or official of competent jurisdiction, and which requires the desegregation of minority group segregated children or faculty in the elementary and secondary schools of such agency, or otherwise requires the elimination or reduction of minority group isolation in such schools; or

(ii) which has been approved by the Secretary as adequate under title VI of the Civil Rights Act of 1964 for the desegregation of minority group segregated children or faculty in such schools; or

(B) which, without having been required to do so, has adopted and is implementing, or will, if assistance is made available to it under this chapter, adopt and implement, a plan for the complete elimination of minority group isolation in all the minority group isolated schools of such agency; or

(C) which has adopted and is implementing, or will, if assistance is made available to it under this Act, adopt and implement, a plan—

(i) to eliminate or reduce minority group isolation in one or more of the minority group isolated schools of such agency.

(ii) to reduce the total number of minority group children who are in minority group isolated schools of such agency, or

(iii) to prevent minority group isolation reasonably likely to occur (in the absence of assistance under this chapter) in any school in such district in which school at least 20 per centum but not more than 50 per centum, of the enrollment consists of such children, or

(D) which, without having been required to do so, has adopted and is implementing, or will, if assistance is made available to it under this chapter, adopt and implement a plan to enroll and educate in the schools of such agency children who would not otherwise be eligible for enrollment because of nonresidence in the school district of such agency, where such enrollment would make a significant contribution toward reducing minority group isolation in one or more of the school districts to which such plan relates; or

(E) which will establish or maintain one or more integrated schools as defined in section 1619(7) of this title and which—

(i) has a sufficient number of minority group children to comprise more than 50 per centum of the number of children in attendance at the schools of such agency, and

(ii) has agreed to apply for an equal amount of assistance under subsection (b) of this section.

(2)(A) The Assistant Secretary is authorized, in accordance with special eligibility criteria established by regulation for the purposes of this paragraph, to make grants to, and contracts with, local educational agencies for the purposes of section 1608(a)(1) of this title.

(B) A local educational agency shall be eligible for assistance under this paragraph only if—

(i) such agency is located within, or adjacent to, a Standard Metropolitan Statistical Area;

(ii) the schools of such agency are not attended by minority group children in a significant number or proportion; and

(iii) such local educational agency has made joint arrangements with a local educational agency, located within that Standard Metropolitan Statistical Area, and the schools of which are attended by minority group children in a significant proportion, for the establishment or maintenance of one or more integrated schools as provided in section 1619(6) of this title.

(b) The Assistant Secretary is authorized to make grants to, or contracts with, local educational agencies, which are eligible under subsection (a)(1) of this section, for usually promising pilot programs or projects designed to overcome the adverse effects of minority group isolation by improving the academic achievement of children in one or more minority group isolated schools, if he determines that the local educational agency had a number of minority group children enrolled in its schools, for the fiscal year preceding the fiscal year for which assistance is to be provided, which (1) is at least 15,000, or (2) constitutes more than 50 per centum of the total number of children enrolled in such schools.

(c) No local educational agency making application under this section shall be eligible to receive a grant or contract in an amount in excess of the amount determined by the Assistant Secretary, in accordance with regulations setting forth criteria established for such purpose, to be the additional cost to the applicant arising out of activities authorized under this chapter, above that of the activities normally carried out by the local educational agency.

(d)(1) No educational agency shall be eligible for assistance under this chapter if it has, after June 23, 1972—

(A) transferred (directly or indirectly by gift, lease, loan, sale, or other means) real or personal property to, or made any services available to, any transferee which it knew or reasonably should have known to be a nonpublic school or school system (or any organization controlling, or intending to establish, such a school or school system) without prior determination that such nonpublic school

or school system (i) is not operated on a racially segregated basis as an alternative for children seeking to avoid attendance in desegregated public schools, and (ii) does not otherwise practice, or permit to be practiced, discrimination on the basis of race, color, or national origin in the operation of any school activity;

(B) had in effect any practice, policy, or procedure which results in the disproportionate demotion or dismissal of instructional or other personnel from minority groups in conjunction with desegregation or the implementation of any plan or the conduct of any activity described in this section, or otherwise engaged in discrimination based upon race, color, or national origin in the hiring, promotion, or assignment of employees of the agency (or other personnel for whom the agency has any administrative responsibility);

(C) in conjunction with desegregation or the conduct of an activity described in this section, had in effect any procedure for the assignment of children to or within classes which results in the separation of minority group from nonminority group children for a substantial portion of the school day, except that this clause does not prohibit the use of bona fide ability grouping by a local educational agency as a standard pedagogical practice; or

(D) had in effect any other practice, policy, or procedure, such as limiting curricular or extracurricular activities (or participation therein by children) in order to avoid the participation of minority group children in such activities, which discriminates among children on the basis of race, color, or national origin;

except that, in the case of any local educational agency which is ineligible for assistance by reason of clause (A), (B), (C), or (D), such agency may make application for a waiver of ineligibility, which application shall specify the reason for its ineligibility, contain such information and assurances as the Secretary shall require by regulation in order to insure that any practice, policy, or procedure, or other activity resulting in the ineligibility has ceased to exist or occur and include such provisions as are necessary to insure that such activities do not reoccur after the submission of the application.

(2) Applications for waivers under paragraph (1) may be approved only by the Secretary. The Secretary's functions under this paragraph shall, notwithstanding any other provision of law, not be delegated.

(3) Applications for waiver shall be granted by the Secretary upon determination that any practice, policy, procedure or other activity resulting in ineligibility has ceased to exist, and that the applicant has given satisfactory assurance that the activities prohibited in this subsection will not reoccur.

(4) No application for assistance under this chapter shall be approved prior to a determination by the Secretary that the applicant is not ineligible by reason of this subsection.

(5) All determinations pursuant to this subsection shall be carried on in accordance with criteria and investigative procedures established by regulations of the Secretary for the purpose of compliance with this subsection.

(6) All determinations and waivers pursuant to this subsection shall be in writing. The Committee on Labor and Public Welfare of the Senate and the Committee on Education and Labor of the House of Representatives shall each be given notice of an intention to grant any waiver under this subsection, which notice shall be accompanied by a copy of the proposed waiver for which notice is given and copies of all determinations relating to such waiver. The Assistant Secretary shall not approve an application by a local educational agency which requires a waiver under this subsection prior to 15 days after receipt of the notice required by the preceding sentence by the chairman of the Committee on Labor and Public Welfare of the Senate and the chairman of the Committee on Education and Labor of the House of Representatives. (Pub. L. 92–318, title VII, § 706, June 23, 1972, 86 Stat. 356, amended Pub. L. 93–380, title VI, § 643(a),(b), Aug. 21, 1974, 88 Stat. 587.)

REFERENCES IN TEXT

Title VI of the Civil Rights Act of 1964, referred to in subsec. (a)(1)(A)(ii), is classified to section 2000d et seq. of Title 42, The Public Health and Welfare.

"This Act", referred to in subsec. (a)(1)(C), means Pub. L. 92–318, which enacted the Education Amendments of 1972. For classification of Pub. L. 92–318 in the Code, see Distribution Table.

AMENDMENTS

1974—Subsec. (a)(1)(E). Pub. L. 93–380, § 643(a), added subpar. (E).

Subsec. (a)(3). Pub. L. 93–380, § 643(a), struck out par. (3) which related to the grant and contract authorization of the Assistant Secretary for establishment of one or more integrated schools with local educational agencies.

Subsec. (b). Pub. L. 93–380, § 643(b), substituted "subsection (a)(1)" for "subsection (a)" of this section.

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment of subsecs. (a) and (b) of this section by Pub. L. 93–380 effective on and after July 1, 1974, and with respect to appropriations for fiscal years beginning on and after such date, see section 646 of Pub. L. 93–380, set out as a note under section 1603 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1604, 1606, 1607, 1608, 1609, 1614, 1619 of this title.

§ 1606. Authorized activities.

(a) Programs and projects.

Financial assistance under this chapter (except as provided by sections 1607, 1608, and 1610 of this title) shall be available for programs and projects which would not otherwise be funded and which involve activities designed to carry out the purpose of this chapter stated in section 1601(b) of this title:

(1) Special remedial services.

Remedial services, beyond those provided under the regular school program conducted by the local educational agency, including student to student tutoring, to meet the special needs of children (including gifted and talented children) in schools which are affected by a plan or activity described in section 1605 of this title or a program described in section 1607 of this title, when such services are

deemed necessary to the success of such plan, activity, or program.

(2) Professional staff.

The provision of additional professional or other staff members (including staff members specially trained in problems incident to desegregation or the elimination, reduction, or prevention of minority group isolation) and the training and retraining of staff for such schools.

(3) Teacher aides.

Recruiting, hiring, and training of teacher aides, provided that in recruiting teacher aides, preference shall be given to parents of children attending schools assisted under this chapter.

(4) Inservice teacher training.

Inservice teacher training designed to enhance the success of schools assisted under this chapter through contracts with institutions of higher education, or other institutions, agencies, and organizations individually determined by the Assistant Secretary to have special competence for such purpose.

(5) Counseling.

Comprehensive guidance, counseling, and other personal services for such children.

(6) New curricula; minority language.

The development and use of new curricula and instructional methods, practices, and techniques (and the acquisition of instructional materials relating thereto) to support a program of instruction for children from all racial, ethnic, and economic backgrounds, including instruction in the language and cultural heritage of minority groups.

(7) Career education.

Educational programs using shared facilities for career education and other specialized activities.

(8) Innovative interracial programs.

Innovative interracial educational programs or projects involving the joint participation of minority group children and other children attending different schools, including extracurricular activities and cooperative exchanges or other arrangements between schools within the same or different school districts.

(9) Community activities.

Community activities, including public information efforts, in support of a plan, program, project, or activity described in this chapter.

(10) Administrative services.

Administrative and auxiliary services to facilitate the success of the program, project, or activity.

(11) Planning and evaluation.

Planning programs, projects, or activities under this chapter, the evaluation of such programs, projects, or activities, and dissemination of information with respect to such programs, projects, or activities.

(12) Facility remodeling; mobile units.

Repair or minor remodeling or alteration of existing school facilities (including the acquisition, installation, modernization, or replacement of instructional equipment) and the lease or purchase of mobile classroom units or other mobile education facilities.

Restriction; definition by regulation of "repair or minor remodeling or alteration."

In the case of programs, projects, or activities involving activities described in paragraph (12), the inclusion of such activities must be found to be a necessary component of, or necessary to facilitate, a program or project involving other activities described in this subsection or subsection (b) of this section, and in no case involve an expenditure in excess of 10 per centum of the amount made available to the applicant to carry out the program, project, or activity. The Assistant Secretary shall by regulation define the term "repair or minor remodeling or alteration".

(b) Local educational agency innovative pilot programs and projects for overcoming adverse effects of minority group isolation.

Sums reserved under section 1604(a)(2) of this title with respect to any State shall be available for grants to, and contracts with, local educational agencies in that State making application for assistance under section 1605(b) of this title to carry out innovative pilot programs and projects which are specifically designed to assist in overcoming the adverse effects of minority group isolation, by improving the educational achievement of children in minority group isolated schools, including only the activities described in paragraphs (1) through (12) of subsection (a) of this section, as they may be used to accomplish such purpose. (Pub. L. 92–318, title VII, § 707, June 23, 1972, 86 Stat. 359.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1604, 1607, 1609, 1614, of this title.

§ 1607. Special programs and projects; grant and contract authority; bilingual education; eligibility, program committee.

(a)(1) Amounts reserved by the Assistant Secretary pursuant to section 1603(b) of this title, which are not designated for the purposes of clause (A) or (B) thereof, or for section 1612 of this title shall be available to him for grants and contracts under this subsection.

(2) The Assistant Secretary is authorized to make grants to, and contracts with, State and local educational agencies, and other public agencies and organizations (or a combination of such agencies and organizations) for the purpose of conducting special programs and projects carrying out activities otherwise authorized by this chapter, which the Assistant Secretary determines will make substantial progress toward achieving the purposes of this chapter.

(3) The Assistant Secretary is authorized to make grants to, and contracts with, one or more private, nonprofit agencies, institutions, or organizations, for educational agencies, of special programs for the teaching of standard mathematics to children eligible for services under this chapter through instruction in advanced mathematics by qualified instructors with bachelor degrees in mathematics, or the mathematical sciences from colleges or other institutions of higher education, or equivalent experience.

(b)(1) From not more than one-half of the sums reserved pursuant to section 1604(a)(3) of this title, the Assistant Secretary, in cases in which he finds that it would effectively carry out the purpose of this chapter stated in section 1601(b) of this title, may assist by grant or contract any public or private nonprofit agency, institution, or organization (other than a local educational agency) to carry out programs or projects designed to support the development or implementation of a plan, program, or activity described in section 1605 of this title.

(2) From the remainder of the sums reserved pursuant to section 1604(a)(3) of this title, the Assistant Secretary is authorized to make grants to, and contracts with, public and private nonprofit agencies, institutions, and organizations (other than local educational agencies and nonpublic elementary and secondary schools) to carry out programs or projects designed to support the development or implementation of a plan, program, or activity described in section 1605 of this title.

(c)(1) The Assistant Secretary shall carry out a program to meet the needs of minority group children who are from an environment in which a dominant language is other than English and who, because of language barriers and cultural differences, do not have equality of educational opportunity. From the amount reserved pursuant to section 1603(b)(A) of this title, the Assistant Secretary is authorized to make grants to, and contracts with—

(A) private nonprofit agencies, institutions, and organizations to develop curricula, at the request of one or more educational agencies which are eligible for assistance under section 1605 of this title, designed to meet the special educational needs of minority group children who are from environments in which a dominant language is other than English, for the development of reading, writing, and speaking skills, in the English language and in the language of their parents or grandparents, and to meet the educational needs of such children and their classmates to understand the history and cultural background of the minority groups of which such children are members;

(B) local educational agencies eligible for assistance under section 1605 of this title for the purpose of engaging in such activities; or

(C) local educational agencies which are eligible to receive assistance under section 1605 of this title for the purpose of carrying out activities authorized under section 1606(a) of this title to implement curricula developed under clauses (A) and (B) or curricula otherwise developed which the Assistant Secretary determines meets the purposes stated in clause (A).

In making grants and contracts under this paragraph, the Assistant Secretary shall assure that sufficient funds from the amount reserved pursuant to section 1603(b)(A) of this title remain available to provide for grants and contracts under clause (C) of this paragraph for implementation of such curricula as the Assistant Secretary determines meet the purposes stated in clause (A) of this paragraph. In making a grant or contract under clause (C) of this paragraph, the Assistant Secretary shall take whatever action is necessary to assure that the implementation plan includes provisions adequate to insure training of teachers and other ancillary educational personnel.

(2)(A) In order to be eligible for a grant or contract under this subsection—

(i) a local educational agency must establish a program or project committee meeting the requirements of subparagraph (B), which will fully participate in the preparation of the application under this subsection and in the implementation of the program or project and join in submitting such application; and

(ii) a private nonprofit agency, institution, or organization must (I) establish a program or project board of not less than ten members which meets the requirements of subparagraph (B) and which shall exercise policymaking authority with respect to the program or project and (II) have demonstrated to the Assistant Secretary that it has the capacity to obtain the services of adequately trained and qualified staff.

(B) A program or project committee or board, established pursuant to subparagraph (A) must be broadly representative of parents, school officials, teachers, and interested members of the community or communities to be served, not less than half of the members of which shall be parents and not less than half of the members of which shall be members of the minority group the educational needs of which the program or project is intended to meet.

(3) All programs or projects assisted under this subsection shall be specifically designed to complement any programs or projects carried out by the local educational agency under section 1605 of this title. The Assistant Secretary shall insure that programs of Federal financial assistance related to the purposes of this subsection are coordinated and carried out in a manner consistent with the provisions of this subsection, to the extent consistent with other law. (Pub. L. 92–318, title VII, § 708, June 23, 1972, 86 Stat. 360, amended Pub. L. 93–380, title VI, §§ 644, 645, Aug. 21, 1974, 88 Stat. 588.)

CODIFICATION

Reference to section 1603(b) was substituted for reference to section 1603(b)(2) of this title in subsec. (a)(1) and to section 1603(b)(A) for section 1603(b)(2)(A) in subsec. (c)(1), first and penultimate sentences, to conform amendment of section 1603(b) of this title by Pub. L. 93–380, which struck out par. (1) of subsec. (b) and designated par. (2) of subsec. (b) of such section as the entire subsec. (b).

AMENDMENTS

1974—Subsec. (a)(3). Pub. L. 93–380, § 644, added par. (3).

Subsec. (b). Pub. L. 93–380, § 645, substituted in pars. (1) and (2) reference to section "1605" for "1605(a)" of this title.

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment of subsecs. (a) and (b) of this section by Pub. L. 93–380 effective on and after July 1, 1974, and with respect to appropriations for fiscal years beginning on and after such date, see section 646 of Pub. L. 93–380, set out as a note under section 1603 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 880b–1, 1603, 1604, 1606, 1608, 1609, 1611, 1614, 1619 of this title.

§ 1608. Metropolitan area projects; restriction.

(a) Sums available to the Secretary under section 1607 of this title for metropolitan area projects shall be available for the following purposes:

(1) A program of grants to, and contracts with, local educational agencies which are eligible under section 1605(a)(2) of this title in order to assist them in establishing and maintaining integrated schools as defined in section 1619(6) of this title.

(2) A program of any grant to groups of local educational agencies located in a Standard Metropolitan Statistical Area for the joint development of a plan to reduce and eliminate minority group isolation, to the maximum extent possible, in the public elementary and secondary schools in the Standard Metropolitan Statistical Area, which shall, as a minimum, provide that by a date certain, but in no event later than July 1, 1983, the percentage of minority group children enrolled in each school in the Standard Metropolitan Statistical Area shall be at least 50 per centum of the percentage of minority group children enrolled in all the schools in the Standard Metropolitan Statistical Area. No grant may be made under this paragraph unless—

(A) two-thirds or more of the local educational agencies in the Standard Metropolitan Statistical Area have approved the application, and

(B) the number of students in the schools of the local educational agencies which have approved the application constitutes two-thirds or more of the number of students in the schools of all the local educational agencies in the Standard Metropolitan Statistical Area.

(b) In making grants and contracts under this section, the Assistant Secretary shall insure that at least one grant shall be for the purposes of paragraph (2) of subsection (a) of this section. (Pub. L. 92–318, title VII, § 709, June 23, 1972, 86 Stat. 361, amended Pub. L. 93–380, title II, § 222, title VI, § 642(b), Aug. 21, 1974, 88 Stat. 519, 587.)

AMENDMENTS

1974—Subsec. (a). Pub. L. 93–380, § 642(b), substituted in introductory text "Sums available to the Secretary under section 1607 of this title for metropolitan area projects" for "Sums reserved pursuant to section 1603(b)(1) of this title."

Subsec. (a)(3). Pub. L. 93–380, § 222, repealed par. (3) which made available reserved moneys for a program of grants to local educational agencies to pay all or part of the cost of planning and constructing integrated education parks, including definition of "education park".

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment of subsec. (a) introductory text by Pub. L. 93–380 effective on and after July 1, 1974, and with respect to appropriations for fiscal years beginning on and after such date, see section 646 of Pub. L. 93–380, set out as a note under section 1603 of this title.

Repeal of subsec. (a)(3) by Pub. L. 93–380 effective on and after sixtieth day after Aug. 21, 1974, see section 2(c) of Pub. L. 93–380, set out as a note under section 241b of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1605, 1606, 1614, 1619 of this title.

§ 1609. Applications for assistance.

(a) General requirements; public information; approval conditions; public hearings; parental committee; freedom of choice; non-Federal funds; supplementation, prohibition; private schools; reports; records, accessibility.

Any local educational agency desiring to receive assistance under this chapter for any fiscal year shall submit to the Assistant Secretary an application therefor for that fiscal year at such time, in such form, and containing such information as the Assistant Secretary shall require by regulation. Such application, together with all correspondence and other written materials relating thereto, shall be made readily available to the public by the applicant and by the Assistant Secretary. The Assistant Secretary may approve such an application only if he determines that such application—

(1) in the case of applications under section 1605 of this title, sets forth a program under which, and such policies and procedures as will assure that, (A) the applicant will use the funds received under this chapter only for the activities set forth in section 1606 of this title and (B) in the case of an application under section 1605(b) of this title, the applicant will initiate or expand an innovative program specifically designed to meet the educational needs of children attending one or more minority group isolated schools;

(2) has been developed—

(A) in open consultation with parents, teachers, and, where applicable, secondary school students, including public hearings at which such persons have had a full opportunity to understand the program for which assistance is being sought and to offer recommendations thereon, and

(B) except in the case of applications under section 1607(c) of this title, with the participation of a committee composed of parents of children participating in the program for which assistance is sought, teachers, and, where applicable, secondary school students, of which at least half the members shall be such parents, and at least half shall be persons from minority groups;

(3) sets forth such policies and procedures as will insure that the program for which assistance is sought will be operated in consultation with, and with the involvement of, parents of the children and representatives of the area to be served, including the committee established for the purposes of clause (2)(B);

(4) sets forth such policies and procedures, and contains such information, as will insure that funds paid to the applicant under the application will be used solely to pay the additional cost to the applicant in carrying out the plan, program, and activity described in the application;

(5) contains such assurances and other information as will insure that the program for which assistance is sought will be administered by the applicant, and that any funds received by the applicant, and any property derived therefrom, will remain under the administration and control of the applicant;

(6) sets forth assurances that the applicant is not reasonably able to provide, out of non-Federal sources, the assistance for which the application is made;

(7) provides that the plan with respect to which such agency is seeking assistance (as specified in section 1605(a)(1)(A) of this title) does not involve freedom of choice as a means of desegregation, unless the Assistant Secretary determines that freedom of choice has achieved, or will achieve, the complete elimination of a dual school system in the school district of such agency;

(8) provides assurances that for each academic year for which assistance is made available to the applicant under this chapter such agency has taken or is in the process of taking all practicable steps to avail itself of all assistance for which it is eligible under any program administered by the Commissioner;

(9) provides assurances that such agency will carry out, and comply with, all provisions, terms, and conditions of any plan, program, or activity as described in section 1605 of this title or section 1607(c) of this title upon which a determination of its eligibility for assistance under this chapter is based;

(10) sets forth such policies and procedures, and contains such information, as will insure that funds made available to the applicant (A) under this chapter will be so used (i) as to supplement and, to the extent practicable, increase the level of funds that would, in the absence of such funds, be made available from non-Federal sources for the purposes of the program for which assistance is sought, and for promoting the integration of the schools of the applicant, and for the education of children participating in such program, and (ii) in no case, as to supplant such funds from non-Federal sources, and (B) under any other law of the United States will, in accordance with standards established by regulation, be used in coordination with such programs to the extent consistent with such other law;

(11) in the case of an application for assistance under section 1605 of this title, provides that the program, project, or activity to be assisted will involve an additional expenditure per pupil to be served, determined in accordance with regulations prescribed by the Assistant Secretary, of sufficient magnitude to provide reasonable assurance that the desired funds under this chapter will not be dispersed in such a way as to undermine their effectiveness;

(12) provides that (A) to the extent consistent with the number of minority group children in the area to be served who are enrolled in private nonprofit elementary and secondary schools which are operated in a manner free from discrimination on the basis of race, color, or national origin, and which do not serve as alternatives for children seeking to avoid attendance in desegregated or integrated public schools, whose participation would assist in achieving the purpose of this chapter stated in section 1601(b) of this title provides assurance that such agency (after consultation with the appropriate private school officials) has made provision for their participation on an equitable basis, and (B) to the extent consistent with the number of children, teachers, and other educational staff in the school district of such agency enrolled or employed in private nonprofit elementary and secondary schools whose participation would assist in achieving the purpose of this chapter stated in section 1601(b) of this title or, in the case of an application under section 1607(c) of this title, would assist in meeting the needs described in that subsection, such agency (after consultation with the appropriate private school officials) has made provisions for their participation on an equitable basis;

(13) provides that the applicant has not reduced its fiscal effort for the provision of free public education for children in attendance at the schools of such agency for the fiscal year for which assistance is sought under this chapter to less than that of the second preceding fiscal year, and that the current expenditure per pupil which such agency makes from revenues derived from its local sources for the fiscal year for which assistance under this chapter will be made available to such agency is not less than such expenditure per pupil which such agency made from such revenues for (A) the fiscal year preceding the fiscal year during which the implementation of a plan described in section 1605(a)(1)(A) of this title was commenced, or (B) the third fiscal year preceding the fiscal year for which such assistance will be made available under this chapter, whichever is later;

(14) provides that the appropriate State educational agency has been given reasonable opportunity to offer recommendations to the applicant and to submit comments to the Assistant Secretary;

(15) sets forth effective procedures, including provisions for objective measurement of change in educational achievement and other change to be effected by programs conducted under this chapter, for the continuing evaluation of programs, projects, or activities under this chapter, including their effectiveness in achieving clearly stated program goals, their impact on related programs and upon the community served, and their structure and mechanisms for the delivery of services, and including, where appropriate, comparisons with proper control groups composed of persons who have not participated in such programs or projects; and

(16) provides (A) that the applicant will make periodic reports at such time, in such form, and containing such information as the Assistant Secretary may require by regulation, which regulation may require at least—

(i) in the case of reports relating to performance, that the reports be consistent with specific criteria related to the program objectives, and

(ii) that the reports include information relating to educational achievement of children in the schools of the applicant,

and (B) that the applicant will keep such records and afford such access thereto as—

(i) will be necessary to assure the correctness of such report and to verify them, and

(ii) will be necessary to assure the public adequate access to such reports and other written materials.

(b) Committee comments; hearing opportunity.

No application under this section may be approved which is not accompanied by the written comments of a committee established pursuant to clause (2) (B) of subsection (a) of this section. The Assistant Secretary shall not approve an application without first affording the committee an opportunity for an informal hearing if the committee requests such a hearing.

(c) Criteria for approval of applications.

In approving applications submitted under this chapter (except for those submitted under sections 1607 (b) and (c) and 1610 of this title), the Assistant Secretary shall apply only the following criteria:

(1) the need for assistance, taking into account such factors as—

(A) the extent of minority group isolation (including the number of minority group isolated children and the relative concentration of such children) in the school district to be served as compared to other school districts in the State,

(B) the financial need of such school district as compared to other school districts in the State,

(C) the expense and difficulty of effectively carrying out a plan or activity described in section 1605 of this title or a program described in section 1607(a) of this title in such school district as compared to other school districts in the State, and

(D) the degree to which measurable deficiencies in the quality of public education afforded in such school district exceed those of other school districts within the State;

(2) the degree to which the plan or activity described in section 1605(a) of this title, and the program or project to be assisted, or the program described in section 1607(a) of this title are likely to effect a decrease in minority group isolation in minority group isolated schools, or in the case of applications submitted under section 1605(a)(1)(C)(iii) or under section 1605(a)(1)(E) of this title, the degree to which the plan or activity and the program or project, are likely to prevent minority group isolation from occurring or increasing (in the absence of assistance under this chapter);

(3) the extent to which the plan or activity described in section 1605 of this title constitutes a comprehensive districtwide approach to the elimination of minority groups isolation, to the maximum extent practicable, in the schools of such school district;

(4) the degree to which the program, project, or activity to be assisted affords promise of achieving the purpose of this chapter stated in section 1601(b) of this title;

(5) that (except in the case of an application submitted under section 1607(a) of this title) the amount necessary to carry out effectively the project or activity does not exceed the amount available for assistance in the State under this chapter in relation to the other applications from the State pending before him; and

(6) the degree to which the plan or activity described in section 1605 of this title involves to the fullest extent practicable the total educational resources, both public and private, of the community to be served.

(d) Voluntary or compulsory adoption of plan not to be considered: reasons for disapproval and opportunity for modification.

(1) The Assistant Secretary shall not give less favorable consideration to the application of a local educational agency (including an agency currently classified as legally desegregated by the Secretary) which has voluntarily adopted a plan qualified for assistance under this chapter (due only to the voluntary nature of the action) than to the application of a local educational agency which has been legally required to adopt such a plan.

(2) The Assistant Secretary shall not finally disapprove in whole or in part any application for funds submitted by a local educational agency without first notifying the local educational agency of the specific reasons for his disapproval and without affording the agency an appropriate opportunity to modify its application.

(e) Filing dates.

The Assistant Secretary may, from time to time, set dates by which applications shall be filed.

(f) Combination of local educational agencies for joint programs or projects.

In the case of an application by a combination of local educational agencies for jointly carrying out a program or project under this chapter, at least one such agency shall be a local educational agency described in section 1605(a) or section 1607 (a) or (c) of this title and any one or more of such agencies joining in such application may be authorized to administer such program or project.

(g) Prohibition against reduction of State assistance to free public education because of Federal assistance.

No State shall reduce the amount of State aid with respect to the provision of free public education in any school district of any local educational agency within such State because of assistance made or to be made available to such agency under this chapter. (Pub. L. 92–318, title VII, § 710, June 23, 1972, 86 Stat. 362, amended Pub. L. 93–380, title VI, § 643(c), Aug. 21, 1974, 88 Stat. 587.)

AMENDMENTS

1974—Subsec. (c)(2). Pub. L. 93–380 inserted reference to section 1605(a)(1)(E) of this title and inserted "or activity" after "plan" where appearing the second time.

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment by Pub. L. 93–380 effective on and after July 1, 1974, and with respect to appropriations for fiscal years beginning on and after such date, see section 646 of Pub. L. 93–380, set out as a note under section 1603 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1604, 1611, 1612, 1614 of this title.

§ 1610. Educational television.

(a) Available funds.

The sums reserved pursuant to section 1603 (b) (2) (B) of this title for the purpose of carrying out this section shall be available for grants and contracts in accordance with subsection (b) of this section.

(b) Grants and contracts for children's programs; eligible organizations; free and noncommercial transmission: requirements for approval.

(1) The Assistant Secretary shall carry out a program of making grants to, or contracts with, not more than ten public or private nonprofit agencies, institutions, or organizations with the capability of providing expertise in the development of television programing, in sufficient number to assure diversity, to pay the cost of development and production of integrated children's television programs of cognitive and effective educational value.

(2) Television programs developed in whole or in part with assistance provided under this chapter shall be made reasonably available for transmission, free of charge, and shall not be transmitted under commercial sponsorship.

(3) The Assistant Secretary may approve an application under this section only if he determines that the applicant—

(A) will employ members of minority groups in responsible positions in development, production, and administrative staffs;

(B) will use modern television techniques of research and production; and

(C) has adopted effective procedures for evaluating education and other change achieved by children viewing the program.

(Pub. L. 92–318, title VII, § 711, June 23, 1972, 86 Stat. 366.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1603, 1606, 1609, 1614 of this title.

§ 1611. Payments.

(a) Upon his approval of an application for assistance under this chapter, the Assistant Secretary shall reserve from the applicable apportionment (including any applicable reapportionment) available therefor the amount fixed for such application.

(b) The Assistant Secretary shall pay to the applicant such reserved amount, in advance or by way of reimbursement, and in such installments consistent with established practice, as he may determine.

(c) (1) If a local educational agency in a State is prohibited by law from providing for the participation of children and staff enrolled or employed in private nonprofit elementary and secondary schools as required by paragraph (12) of section 1609(a) of this title, the Assistant Secretary may waive such requirement with respect to local educational agencies in such State and, upon the approval of an application from a local educational agency within such State, shall arrange for the provision of services to such children enrolled in, or teachers or other educational staff of, any nonprofit private elementary or secondary school located within the school district of such agency if the participation of such children and staff would assist in achieving the purpose of this chapter stated in section 1601(b) of this title or in the case of an application under section 1607(c) of this title would assist in meeting the needs described in that subsection. The services to be provided through arrangements made by the Assistant Secretary under this paragraph shall be comparable to the services to be provided by such local educational agency under such application. The Assistant Secretary shall pay the cost of such arrangements from such State's allotment or, in the case of an application under section 1607(c) of this title, from the funds reserved under section 1603(b) (A) of this title, or in case of an application under section 1607(a) of this title, from the sums available to the Assistant Secretary under section 1603(b) of this title for the purpose of that subsection.

(2) In determining the amount to be paid pursuant to paragraph (1), the Assistant Secretary shall take into account the number of children and teachers and other educational staff who, except for provisions of State law, might reasonably be expected to participate in the program carried out under this chapter by such local educational agency.

(3) If the Assistant Secretary determines that a local educational agency has substantially failed to provide for the participation on an equitable basis of children and staff enrolled or employed in private nonprofit elementary and secondary schools as required by paragraph (12) of section 1609(a) of this title he shall arrange for the provision of services to children enrolled in, or teachers or other educational staff of, the nonprofit private elementary or secondary school or schools located within the school district of such local educational agency, which services shall, to the maximum extent feasible, be identical with the services which would have been provided such children or staff had the local educational agency carried out such assurance. The Assistant Secretary shall pay the cost of such services from the grant to such local educational agency and shall have the authority for this purpose of recovering from such agency any funds paid to it under such grant.

(d) After making a grant or contract under this chapter, the Assistant Secretary shall notify the appropriate State educational agency of the name of the approved applicant and of the amount approved. (Pub. L. 92–318, title VII, § 712, June 23, 1972, 86 Stat. 366.)

CODIFICATION

Reference to section 1603(b)(A) and 1603(b) was substituted for reference to section 1603(b)(2)(A) and section 1603(b)(2), in subsec. (c)(1), to conform amendment of section 1603(b) of this title by Pub. L. 93–380, which struck out par. (1) of subsec. (b) and designated par. (2) of subsec. (b) of such section as the entire subsec. (b).

§ 1612. Evaluations.

The Assistant Secretary is authorized to reserve not in excess of 1 per centum of the sums appropriated under this chapter, and reserved pursuant to section 1603(b) of this title, for any fiscal year for the purposes of this section. From such reservation, the Assistant Secretary is authorized to make

grants to, and contracts with, State educational agencies, institutions of higher education and private organizations, institutions, and agencies, including committees established pursuant to section 1609(a)(2) of this title for the purpose of evaluating specific programs and projects assisted under this chapter. (Pub. L. 92–318, title VII, § 713, June 23, 1972, 86 Stat. 367.)

CODIFICATION

Reference to section 1603(b) was substituted for reference to section 1603(b)(2) of this title to conform to amendment of section 1603(b) of this title by Pub. L. 93–380, which struck out par. (1) of subsec. (b) and designated par. (2) of subsec. (b) of such section as the entire subsec. (b).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1603, 1607 of this title.

§ 1613. Reports to President and congressional committees.

The Assistant Secretary shall make periodic detailed reports concerning his activities in connection with the program authorized by this chapter and the program carried out with appropriations under the paragraph headed "Emergency School Assistance" in the Office of Education Appropriations Act, 1971 (Public Law 91–380), and the effectiveness of programs and projects assisted under this chapter in achieving the purpose of this chapter stated in section 1601(b) of this title. Such reports shall contain such information as may be necessary to permit adequate evaluation of the program authorized by this chapter, and shall include application forms, regulations, program guides, and guidelines used in the administration of the program. The report shall be submitted to the President and to the Committee on Labor and Public Welfare of the Senate and the Committee on Education and Labor of the House of Representatives. The first report submitted pursuant to this section shall be submitted no later than ninety days after June 23, 1972. Subsequent reports shall be submitted no less often than two times annually. (Pub. L. 92–318, title VII, § 714, June 23, 1972, 86 Stat. 368.)

REFERENCES IN TEXT

Provisions respecting Emergency School Assistance in the Office of Education Appropriations Act, 1971 (Public Law 91–380), referred to in the text, are found in the statutes at large at Pub. L. 91–380, title I, § 10, Aug. 18, 1970, 84 Stat. 803.

§ 1614. Joint funding; waiver.

Pursuant to regulations prescribed by the President, where funds are advanced under this chapter, and by one or more other Federal agencies for any project or activity funded in whole or in part under this chapter, any one of such Federal agencies may be designated to act for all in administering the funds advanced. In such cases, any such agency ment (as defined by regulations) which is inconsistmay waive any technical grant or contract requirement with the similar requirements of the administering agency or which the administering agency does not impose. Nothing in this section shall be construed to authorize (1) the use of any funds appropriated under this chapter for any purpose not authorized herein, (2) a variance of any reservation or apportionment under section 1603 or 1604 of this title, or (3) waiver of any requirement set forth in sections 1605 through 1610 of this title. (Pub. L. 92–318, title VII, § 715, June 23, 1972, 86 Stat. 368.)

§ 1615. National Advisory Council on Equality of Educational Opportunity.

(a) Establishment; membership; representation of interests; functions.

There is hereby established a National Advisory Council on Equality of Educational Opportunity, consisting of fifteen members, at least one-half of whom shall be representative of minority groups, appointed by the President, which shall—

(1) advise the Assistant Secretary with respect to the operation of the program authorized by this chapter, including the preparation of regulations and the development of criteria for the approval of applications;

(2) review the operation of the program (A) with respect to its effectiveness in achieving its purpose as stated in section 1601(b) of this title, and (B) with respect to the Assistant Secretary's conduct in the administration of the program;

(3) meet not less than four times in the period during which the program is authorized, and submit through the Secretary, to the Congress at least two interim reports, which reports shall include a statement of its activities and of any recommendations it may have with respect to the operation of the program; and

(4) not later than December 1, 1973, submit to the Congress a final report on the operation of the program.

(b) Estimates for execution of functions; termination of National Council.

The Assistant Secretary shall submit an estimate in the same manner provided under section 1221(c) of this title and subchapter IV of chapter 31 of this title to the Congress for the appropriations necessary for the Council created by subsection (a) of this section to carry out its functions. Subject to section 1233g(b) of this title, such Council shall continue to exist until September 30, 1976. (Pub. L. 92–318, title VII, § 716, June 23, 1972, 86 Stat. 368, amended Pub. L. 93–380, title VIII, § 845(e), Aug. 21, 1974, 88 Stat. 612; Pub. L. 94–43, § 3, June 28, 1975, 89 Stat. 233.)

AMENDMENTS

1975—Subsec. (b). Pub.L. 94–43 substituted "September 30, 1976" for "July 1, 1975".

1974—Subsec. (b). Pub. L. 93–380 continued existence of the National Council until July 1, 1975.

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment by Pub. L. 93–380 effective on and after sixtieth day after Aug. 21, 1974, see section 2(c) of Pub. L. 93–380, set out as a note under section 241b of this title.

§ 1616. General provisions.

The provisions of subchapters III and IV of chapter 31 of this title shall apply to the program of Federal assistance authorized under this chapter as if such program were an applicable program under such chapter 31, and the Assistant Secretary shall have the authority vested in the Commissioner of Education by such subchapters with respect to such program. (Pub. L. 92–318, title VII, § 717(a), June 23, 1972, 86 Stat. 369.)

§ 1617. Attorney fees.

Upon the entry of a final order by a court of the United States against a local educational agency, a State (or any agency thereof), or the United States (or any agency thereof), for failure to comply with any provision of this chapter or for discrimination on the basis of race, color, or national origin in violation of title VI of the Civil Rights Act of 1964, or the fourteenth amendment to the Constitution of the United States as they pertain to elementary and secondary education, the court, in its discretion, upon a finding that the proceedings were necessary to bring about compliance, may allow the prevailing party, other than the United States, a reasonable attorney's fee as part of the costs. (Pub. L. 92–318, title VII, § 718, June 23, 1972, 86 Stat. 369.)

REFERENCES IN TEXT

Title VI of the Civil Rights Act of 1964, referred to in the text, is classified to section 2000d et seq. of Title 42, The Public Health and Welfare.

§ 1618. Neighborhood schools.

Nothing in this chapter shall be construed as requiring any local educational agency which assigns students to schools on the basis of geographic attendance areas drawn on a racially nondiscriminatory basis to adopt any other method of student assignment. (Pub. L. 92–318, title VII, § 719, June 23, 1972, 86 Stat. 369.)

§ 1619. Definitions.

Except as otherwise specified, the following definitions shall apply to the terms used in this chapter:

(1) The term "Assistant Secretary" means the Assistant Secretary of Health, Education, and Welfare for Education.

(2) The term "current expenditure per pupil" for a local educational agency means (1) the expenditures for free public education, including expenditures for administration, instruction, attendance and health services, pupil transportation services, operation and maintenance of plant, fixed charges, and net expenditures to cover deficits for food services and student body activities, but not including expenditures for community services, capital outlay and debt service, or any expenditure made from funds granted under such Federal program of assistance as the Secretary may prescribe, divided by (2) the number of children in average daily attendance to whom such agency provided free public education during the year for which the computation is made.

(3) The term "elementary school" means a day or residential school which provides elementary education, as determined under State law.

(4) The term "equipment" includes machinery, utilities and built-in equipment and any necessary enclosures or structures to house them, and includes all other items necessary for the provision of educational services, such as instructional equipment and necessary furniture, printed, published, and audiovisual instructional materials, and other related material.

(5) The term "institution of higher education" means an educational institution in any State which—

(A) admits as regular students only individuals having a certificate of graduation from a high school, or the recognized equivalent of such a certificate;

(B) is legally authorized within such State to provide a program of education beyond high school;

(C) provides an educational program for which it awards a bachelor's degree; or provides not less than a two-year program which is acceptable for full credit toward such a degree, or offers a two-year program in engineering, mathematics, or the physical or biological sciences which is designed to prepare the student to work as a technician and at a semiprofessional level in engineering, scientific, or other technological fields which require the understanding and application of basic engineering, scientific, or mathematical principles or knowledge;

(D) is a public or other nonprofit institution; and

(E) is accredited by a nationally recognized accrediting agency or association listed by the Commissioner for the purposes of this paragraph.

(6) For the purpose of section 1605(a)(2) of this title and section 1608(a)(1) of this title, the term "integrated school" means a school with an enrollment in which a substantial proportion of the children is from educationally advantaged backgrounds, in which the proportion of minority group children is at least 50 per centum of the proportion of minority group children enrolled in all schools of the local educational agencies within the Standard Metropolitan Statistical Area, and which has a faculty and administrative staff with substantial representation of minority group persons.

(7) For the purpose of section 1605(a)(1)(E) of this title, the term "integrated school" means a school with (i) an enrollment in which a substantial proportion of the children is from educationally advantaged backgrounds, and in which the Assistant Secretary determines that the number of nonminority group children constitutes that proportion of the enrollment which will achieve stability, in no event more than 65 per centum thereof, and (ii) a faculty which is representative of the minority group and nonminority group population of the larger community in which it is located, or, whenever the Assistant Secretary determines that the local educational agency concerned is attempting to increase the proportions of minority group teachers, supervisors, and administrators in its employ, a faculty which is representative of the minority group and nonminority group faculty employed by the local educational agency.

(8) The term "local educational agency" means a public board of education or other public authority legally constituted within a State for either administrative control or direction of, public elementary or secondary schools in a city, county, township, school district, or other political subdivision of a State, or a federally recognized Indian reservation, or such combination of school districts, or counties as are recognized in a State as an administrative agency for its public elementary or secondary schools, or a

combination of local educational agencies; and includes any other public institution or agency having administrative control and direction of a public elementary or secondary school and where responsibility for the control and direction of the activities in such schools which are to be assisted under this chapter is vested in an agency subordinate to such a board or other authority, the Assistant Secretary may consider such subordinate agency as a local educational agency for purpose of this chapter.

(9)(A) The term "minority group" refers to (i) persons who are Negro, American Indian, Spanish-surnamed American, Portuguese, Oriental, Alaskan natives, and Hawaiian natives and (ii) (except for the purposes of section 1604 of this title), as determined by the Assistant Secretary, persons who are from environments in which a dominant language is other than English and who, as a result of language barriers and cultural differences, do not have an equal educational opportunity, and (B) the term "Spanish-surnamed American" includes persons of Mexican, Puerto Rican, Cuban, or Spanish origin or ancestry.

(10) The terms "minority group isolated school" and "minority group isolation" in reference to a school mean a school and condition, respectively, in which minority group children constitute more than 50 per centum of the enrollment of a school.

(11) The term "nonprofit" as applied to a school, agency, organization, or institution means a school, agency, organization, or institution owned and operated by one or more nonprofit corporations or associations no part of the net earnings of which inures, or may lawfully inure, to the benefit of any private shareholder or individual.

(12) The term "secondary school" means a day or residential school which provides secondary education, as determined under State law, except that it does not include any education provided beyond grade 12.

(13) The term "Standard Metropolitan Statistical Area" means the area in and around a city of fifty thousand inhabitants or more as defined by the Office of Management and Budget.

(14) The term "State" means one of the fifty States or the District of Columbia, and for purposes of section 1607(a) of this title, Puerto Rico, Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands shall be deemed to be States.

(15) The term "State educational agency" means the State board of education or other agency or officer primarily responsible for the State supervision of public elementary and secondary schools, or, if there is no such officer or agency, an officer or agency designated by the Governor or by State law for this purpose. (Pub. L. 92-318, title VII, § 720, June 23, 1972, 86 Stat. 369, amended Pub. L. 93-380, title VI, § 643(d), Aug. 21, 1974, 88 Stat. 587.)

AMENDMENTS

1974—Par. (7). Pub. L. 93-380 substituted reference to section "1605(a)(1)(E)" for "1605(a)(3)" of this title.

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment by Pub. L. 93-380 effective on and after July 1, 1974, and with respect to appropriations for fiscal years beginning on and after such date, see section 646 of Pub. L. 93-380, set out as a note under section 1603 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1605, 1608 of this title.

Chapter 37.—ASSIGNMENT OR TRANSPORTATION OF STUDENTS [NEW]

Sec.

1651. Prohibition against assignment or transportation of students to overcome racial imbalance.
1652. Prohibition against use of appropriated funds for busing.
1653. Judicial orders postponed pending court appeals; expiration date.
1654. Intervention authorization in implementation of court orders.
1655. Uniform rules of evidence of racial discrimination.
1656. Prohibition against official or court orders to achieve racial balance or insure compliance with constitutional standards applicable to entire United States.

§ 1651. Prohibition against assignment or transportation of students to overcome racial imbalance.

No provision of this Act shall be construed to require the assignment or transportation of students or teachers in order to overcome racial imbalance. (Pub. L. 92-318, title VIII, § 801, June 23, 1972, 86 Stat. 371.)

REFERENCES IN TEXT

"This Act", referred to in the text, means Pub. L. 92-318 which enacted the Education Amendments of 1972. For classification of Pub. L. 92-318 in the Code, see Distributions Table.

§ 1652. Prohibition against use of appropriated funds for busing.

(a) No funds appropriated for the purpose of carrying out any applicable program may be used for the transportation of students or teachers (or for the purchase of equipment for such transportation) in order to overcome racial imbalance in any school or school system, or for the transportation of students or teachers (or for the purchase of equipment for such transportation) in order to carry out a plan of racial desegregation of any school or school system, except on the express written voluntary request of appropriate local school officials. No such funds shall be made available for transportation when the time or distance of travel is so great as to risk the health of the children or significantly impinge on the educational process of such children, or where the educational opportunities available at the school to which it is proposed that any such student be transported will be substantially inferior to those opportunities offered at the school to which such student would otherwise be assigned under a nondiscriminatory system of school assignments based on geographic zones established without discrimination on account of race, religion, color, or national origin.

(b) No officer, agent, or employee of the Department of Health, Education, and Welfare (including the Office of Education), the Department of Justice, or any other Federal agency shall, by rule, regulation, order, guideline, or otherwise (1) urge, persuade, induce, or require any local education agency, or any private nonprofit agency, institution, or organization to use any funds derived from any State

or local sources for any purpose, unless constitutionally required, for which Federal funds appropriated to carry out any applicable program may not be used, as provided in this section, or (2) condition the receipt of Federal funds under any Federal program upon any action by any State or local public officer or employee which would be prohibited by clause (1) on the part of a Federal officer or employee. No officer, agent, or employee of the Department of Health, Education, and Welfare (including the Office of Education) or any other Federal agency shall urge, persuade, induce, or require any local education agency to undertake transportation of any student where the time or distance of travel is so great as to risk the health of the child or significantly impinge on his or her educational process; or where the educational opportunities available at the school to which it is proposed that such student be transported will be substantially inferior to those offered at the school to which such student would otherwise be assigned under a nondiscriminatory system of school assignments based on geographic zones established without discrimination on account of race, religion, color, or national origin.

(c) An applicable program means a program to which chapter 31 of this title applies. (Pub. L. 92–318, title VIII, § 802, June 23, 1972, 86 Stat. 371.)

§ 1653. Judicial orders postponed pending court appeals; expiration date.

CODIFICATION

Section, Pub. L. 92–318, title VIII, § 803, June 23, 1972, 86 Stat. 372, which provided that the effectiveness of orders of district courts requiring the transfer or transportation of students for the purposes of achieving a balance among students with respect to race, sex, religion, or socioeconomic status, be postponed until all appeals in connection with such orders have been exhausted or until expiration of the time for such appeals, expired at midnight on January 1, 1974, and is omitted as executed.

§ 1654. Intervention authorization in implementation of court orders.

A parent or guardian of a child, or parents or guardians of children similarly situated, transported to a public school in accordance with a court order, may seek to reopen or intervene in the further implementation of such court order, currently in effect, if the time or distance of travel is so great as to risk the health of the student or significantly impinge on his or her educational process. (Pub. L. 92–318, title VIII, § 804, June 23, 1972, 86 Stat. 372.)

§ 1655. Uniform rules of evidence of racial discrimination.

The rules of evidence required to prove that State or local authorities are practicing racial discrimination in assigning students to public schools shall be uniform throughout the United States. (Pub. L. 92–318, title VIII, § 805, June 23, 1972, 86 Stat. 372.)

§ 1656. Prohibition against official or court orders to achieve racial balance or insure compliance with constitutional standards applicable to entire United States.

The proviso of section 407(a) of the Civil Rights Act of 1964 providing in substance that no court or official of the United States shall be empowered to issue any order seeking to achieve a racial balance in any school by requiring the transportation of pupils or students from one school to another or one school district to another in order to achieve such racial balance, or otherwise enlarge the existing power of the court to insure compliance with constitutional standards shall apply to all public school pupils and to every public school system, public school and public school board, as defined by title IV, under all circumstances and conditions and at all times in every State, district, territory, Commonwealth, or possession of the United States regardless of whether the residence of such public school pupils or the principal offices of such public school system, public school or public school board is situated in the northern, eastern, western, or southern part of the United States. (Pub. L. 92–318, title VIII, § 806, June 23, 1972, 86 Stat. 373.)

REFERENCES IN TEXT

Section 407(a) of the Civil Rights Act of 1964, referred to in the text, is classified to section 2000c—6(a) of Title 42, The Public Health and Welfare.

Title IV, referred to in the text, means title IV of the Civil Rights Act of 1964, which is classified to section 2000c of Title 42.

Chapter 38.—DISCRIMINATION BASED ON SEX OR BLINDNESS [NEW]

Sec.

1681. Sex.
(a) Prohibition against discrimination; exceptions.
(1) Classes of educational institutions subject to prohibition.
(2) Educational institutions commencing planned change in admissions.
(3) Educational institutions of religious organizations with contrary religious tenets.
(4) Educational institutions training individuals for military services or merchant marine.
(5) Public educational institutions with traditional and continuing admissions policy.
(b) Preferential or disparate treatment because of imbalance in participation or receipt of Federal benefits; statistical evidence of imbalance.
(c) Educational institution defined.
1682. Federal administrative enforcement; report to congressional committees.
1683. Judicial review.
1684. Blindness or visual impairment; prohibition against discrimination.
1685. Authority under other laws unaffected.
1686. Interpretation with respect to living facilities.

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in section 1232 of this title; title 29 section 206.

§ 1681. Sex.

(a) Prohibition against discrimination; exceptions.

No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance, except that:

(1) Classes of educational institutions subject to prohibition.

In regard to admissions to educational institutions, this section shall apply only to institutions of vocational education, professional education, and graduate higher education, and to public institutions of undergraduate higher education;

(2) Educational institutions commencing planned change in admissions.

In regard to admissions to educational institutions, this section shall not apply (A) for one year from June 23, 1972, nor for six years after June 23, 1972, in the case of an educational institution which has begun the process of changing from being an institution which admits only students of one sex to being an institution which admits students of both sexes, but only if it is carrying out a plan for such a change which is approved by the Commissioner of Education or (B) for seven years from the date an educational institution begins the process of changing from being an institution which admits only students of only one sex to being an institution which admits students of both sexes, but only if it is carrying out a plan for such a change which is approved by the Commissioner of Education, whichever is the later;

(3) Educational institutions of religious organizations with contrary religious tenets.

This section shall not apply to an educational institution which is controlled by a religious organization if the application of this subsection would not be consistent with the religious tenets of such organization;

(4) Educational institutions training individuals for military services or merchant marine.

This section shall not apply to an educational institution whose primary purpose is the training of individuals for the military services of the United States, or the merchant marine;

(5) Public educational institutions with traditional and continuing admissions policy.

In regard to admissions this section shall not apply to any public institution of undergraduate higher education which is an institution that traditionally and continually from its establishment has had a policy of admitting only students of one sex; and

(6) Social fraternities or sororities; voluntary youth service organizations.

This section shall not apply to membership practices—

(A) of a social fraternity or social sorority which is exempt from taxation under section 501(a) of Title 26, the active membership of which consists primarily of students in attendance at an institution of higher education, or

(B) of the Young Men's Christian Association, Young Women's Christian Association, Girl Scouts, Boy Scouts, Camp Fire Girls, and voluntary youth service organizations which are so exempt, the membership of which has traditionally been limited to persons of one sex and principally to persons of less than nineteen years of age.

(b) Preferential or disparate treatment because of imbalance in participation or receipt of Federal benefits; statistical evidence of imbalance.

Nothing contained in subsection (a) of this section shall be interpreted to require any educational institution to grant preferential or disparate treatment to the members of one sex on account of an imbalance which may exist with respect to the total number or percentage of persons of that sex participating in or receiving the benefits of any federally supported program or activity, in comparison with the total number or percentage of persons of that sex in any community, State, section, or other area: *Provided*, That this subsection shall not be construed to prevent the consideration in any hearing or proceeding under this chapter of statistical evidence tending to show that such an imbalance exists with respect to the participation in, or receipt of the benefits of, any such program or activity by the members of one sex.

(c) Educational institution defined.

For purposes of this chapter an educational institution means any public or private preschool, elementary, or secondary school, or any institution of vocational, professional, or higher education, except that in the case of an educational institution composed of more than one school, college, or department which are administratively separate units, such term means each such school, college, or department. (Pub. L. 92–318, title IX, § 901, June 23, 1972, 86 Stat. 373, amended Pub. L. 93–568, § 3(a), Dec. 31, 1974, 88 Stat. 1862.)

REFERENCES IN TEXT

"This chapter", referred to in subsecs. (b) and (c), read in the original "this title", meaning title IX of Pub. L. 92–318 which is classified to this chapter and amended sections 203 (r)(1), (s)(4) and 213(a) of Title 29, Labor, and sections 2000c(b), 2000c–6(a)(2), 2000c–9, and 2000h–2 of Title 42, The Public Health and Welfare.

AMENDMENTS

1974—Subsec. (a). Pub. L. 93–568 added par. (6).

EFFECTIVE DATE OF 1974 AMENDMENT

Section 3(b) of Pub. L. 93–568 provided that: "The provisions of the amendment made by subsection (a) [amending this section] shall be effective on, and retroactive to, July 1, 1972."

REGULATIONS; NATURE OF PARTICULAR SPORTS: INTERCOLLEGIATE ATHLETIC ACTIVITIES

Pub. L. 93–380, title VIII, § 844, Aug. 21, 1974, 88 Stat. 612, provided that: "The Secretary shall prepare and publish, not later than 30 days after the date of enactment of this Act [Aug. 21, 1974], proposed regulations implementing the provisions of title IX of the Education Amendments of 1972 [this chapter] relating to the prohibition of sex discrimination in federally assisted education programs which shall include with respect to intercollegiate athletic activities reasonable provisions considering the nature of particular sports."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1682 of this title.

§ 1682. Federal administrative enforcement; report to congressional committees.

Each Federal department and agency which is empowered to extend Federal financial assistance to any education program or activity, by way of grant, loan, or contract other than a contract of insurance or guaranty, is authorized and directed to effectuate the provisions of section 1681 of this title with respect to such program or activity by issuing rules, regulations, or orders of general applicability which shall be consistent with achievement of the objectives of the statute authorizing the financial assistance in connection with which the action is taken. No such rule, regulation, or order shall become effective unless and until approved by the

President. Compliance with any requirement adopted pursuant to this section may be effected (1) by the termination of or refusal to grant or to continue assistance under such program or activity to any recipient as to whom there has been an express finding on the record, after opportunity for hearing, of a failure to comply with such requirement, but such termination or refusal shall be limited to the particular political entity, or part thereof, or other recipient as to whom such a finding has been made, and shall be limited in its effect to the particular program, or part thereof, in which such noncompliance has been so found, or (2) by any other means authorized by law: *Provided, however,* That no such action shall be taken until the department or agency concerned has advised the appropriate person or persons of the failure to comply with the requirement and has determined that compliance cannot be secured by voluntary means. In the case of any action terminating, or refusing to grant or continue, assistance because of failure to comply with a requirement imposed pursuant to this section, the head of the Federal department or agency shall file with the committees of the House and Senate having legislative jurisdiction over the program or activity involved a full written report of the circumstances and the grounds for such action. No such action shall become effective until thirty days have elapsed after the filing of such report. (Pub. L. 92–318, title IX, § 902, June 23, 1972, 86 Stat. 374.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1683 of this title.

§ 1683. Judicial review.

Any department or agency action taken pursuant to section 1682 of this title shall be subject to such judicial review as may otherwise be provided by law for similar action taken by such department or agency on other grounds. In the case of action, not otherwise subject to judicial review, terminating or refusing to grant or to continue financial assistance upon a finding of failure to comply with any requirement imposed pursuant to section 1682 of this title, any person aggrieved (including any State or political subdivision thereof and any agency of either) may obtain judicial review of such action in accordance with chapter 7 of Title 5, and such action shall not be deemed committed to unreviewable agency discretion within the meaning of section 701 of that title. (Pub. L. 92–318, title IX, § 903, June 23, 1972, 86 Stat. 374.)

CODIFICATION

"Section 1682 of this title", where first appearing, was substituted for "section 1002" appearing in the Statutes at Large as conforming to intent of Congress as Pub. L. 92–318 was enacted without any section 1002 and subsequent text refers to "section 902", codified as "section 1682 of this title".

§ 1684. Blindness or visual impairment; prohibition against discrimination.

No person in the United States shall, on the ground of blindness or severely impaired vision, be denied admission in any course of study by a recipient of Federal financial assistance for any education program or activity, but nothing herein shall be construed to require any such institution to provide any special services to such person because of his blindness or visual impairment. (Pub. L. 92–318, title IX, § 904, June 23, 1972, 86 Stat. 375.)

§ 1685. Authority under other laws unaffected.

Nothing in this chapter shall add to or detract from any existing authority with respect to any program or activity under which Federal financial assistance is extended by way of a contract of insurance or guaranty. (Pub. L. 92–318, title IX, § 905, June 23, 1972, 86 Stat. 375.)

REFERENCES IN TEXT

"This chapter", referred to in the text, read in the original "this title", meaning title IX of Pub. L. 92–318 which is classified to this chapter and amended sections 203 (r) (1), (s) (4) and 213(a) of Title 29, Labor, and sections 2000c(b), 2000c–6(a) (2), 2000c–9, and 2000h–2 of Title 42, The Public Health and Welfare.

§ 1686. Interpretation with respect to living facilities.

Notwithstanding anything to the contrary contained in this chapter, nothing contained herein shall be construed to prohibit any educational institution receiving funds under this Act, from maintaining separate living facilities for the different sexes. (Pub. L. 92–318, title IX, § 907, June 23, 1972, 86 Stat. 375.)

REFERENCES IN TEXT

"This chapter", referred to in the text, read in the original "this title", meaning title IX of Pub. L. 92–318 which is classified to this chapter and amended sections 203 (r) (1), (s) (4) and 213(a) of Title 29, Labor, and sections 2000c(b), 2000c–6(a) (2), 2000c–9, and 2000h–2 of Title 42, The Public Health and Welfare.

This Act, referred to in the text, means Pub. L. 92–318 which enacted the Education Amendments of 1972. For classification of Pub. L. 92–318 in the Code, see Distributions Table.

Chapter 39.—EQUAL EDUCATIONAL OPPORTUNITIES AND TRANSPORTATION OF STUDENTS [NEW]

SUBCHAPTER I.—EQUAL EDUCATIONAL OPPORTUNITIES

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1753. Uniform rules of evidence requirement.
1754. Provisions respecting transportation of pupils to achieve racial balance and judicial power to insure compliance with constitutional standards applicable to the entire United States.
1755. Additional priority of remedies after finding of de jure segregation.
1756. Remedies with respect to school district lines.
1757. Prohibition of forced busing during school year.
(a) Congressional findings.
(b) Student transportation orders incidental to student transfers pursuant to school desegregation plans effective beginning with academic school year.
(c) "Academic school year" defined.
(d) Orders subject to provisions of section.
1758. Reasonable time for developing voluntary school desegregation plans following detailed notice of violations.

SUBCHAPTER I.—EQUAL EDUCATIONAL OPPORTUNITIES

PART 1.—POLICY AND PURPOSE

§ 1701. Congressional declaration of policy.

(a) The Congress declares it to be the policy of the United States that—

(1) all children enrolled in public schools are entitled to equal educational opportunity without regard to race, color, sex, or national origin; and

(2) the neighborhood is the appropriate basis for determining public school assignments.

(b) In order to carry out this policy, it is the purpose of this subchapter to specify appropriate remedies for the orderly removal of the vestiges of the dual school system. (Pub. L. 93–380, title II, § 202, Aug. 21, 1974, 88 Stat. 514.)

EFFECTIVE DATE

Section effective on and after sixtieth day after Aug. 21, 1974, see section 2(c) of Pub. L. 93–380, set out as a note under section 241b of this title.

SHORT TITLE

Section 201 of Pub. L. 93–380 provided that: "This title [classified to this chapter and section 1228 of this title and repealing section 1608(a)(3) of this title] may be cited as the 'Equal Educational Opportunities Act of 1974'."

§ 1702. Congressional findings; necessity for Congress to specify appropriate remedies for elimination of dual school systems without affecting judicial enforcement of Fifth and Fourteenth Amendments.

(a) The Congress finds that—

(1) the maintenance of dual school systems in which students are assigned to schools solely on the basis of race, color, sex, or national origin denies to those students the equal protection of the laws guaranteed by the fourteenth amendment;

(2) for the purpose of abolishing dual school systems and eliminating the vestiges thereof, many local educational agencies have been required to reorganize their school systems, to reassign students, and to engage in the extensive transportation of students;

(3) the implementation of desegregation plans that require extensive student transportation has, in many cases, required local educational agencies to expand large amounts of funds, thereby depleting their financial resources available for the maintenance or improvement of the quality of educational facilities and instruction provided;

(4) transportation of students which creates serious risks to their health and safety, disrupts the educational process carried out with respect to such students, and impinges significantly on their educational opportunity, is excessive;

(5) the risks and harms created by excessive transportation are particularly great for children enrolled in the first six grades; and

(6) the guidelines provided by the courts for fashioning remedies to dismantle dual school systems have been, as the Supreme Court of the United States has said, "incomplete and imperfect," and have not established, a clear, rational, and uniform standard for determining the extent to which a local educational agency is required to reassign and transport its students in order to eliminate the vestiges of a dual school system.

(b) For the foregoing reasons, it is necessary and proper that the Congress, pursuant to the powers granted to it by the Constitution of the United States, specify appropriate remedies for the elimination of the vestiges of dual school systems, except that the provisions of this chapter are not intended to modify or diminish the authority of the courts of the United States to enforce fully the fifth and fourteenth amendments to the Constitution of the United States. (Pub. L. 93–380, title II, § 203, Aug. 21, 1974, 88 Stat. 514.)

EFFECTIVE DATE

Section effective on and after sixtieth day after Aug. 21, 1974, see section 2(c) of Pub. L. 93–380, set out as a note under section 241b of this title.

PART 2.—UNLAWFUL PRACTICES

PART REFERRED TO IN OTHER SECTIONS

This part is referred to in section 1710 of this title.

§ 1703. Denial of equal educational opportunity prohibited.

No State shall deny equal educational opportunity to an individual on account of his or her race, color, sex, or national origin, by—

(a) the deliberate segregation by an educational agency of students on the basis of race, color, or national origin among or within schools;

(b) the failure of an educational agency which has formerly practiced such deliberate segregation to take affirmative steps, consistent with part 4 of this subchapter, to remove the vestiges of a dual school system;

(c) the assignment by an educational agency of a student to a school, other than the one closest to his or her place of residence within the school district in which he or she resides, if the assignment results in a greater degree of segregation of students on the basis of race, color, sex, or national origin among the schools of such agency than would result if such student were assigned to the school closest to his or her place of residence within the school district of such agency providing the appropriate grade level and type of education for such student:

(d) discrimination by an educational agency on the basis of race, color, or national origin in the employment, employment conditions, or assignment to schools of its faculty or staff, except to fulfill the purposes of subsection (f) below;

(e) the transfer by an educational agency, whether voluntary or otherwise, of a student from one school to another if the purpose and effect of such transfer is to increase segregation of students on the basis of race, color, or national origin among the schools of such agency; or

(f) the failure by an educational agency to take appropriate action to overcome language barriers that impede equal participation by its students in its instructional programs.

(Pub. L. 93–380, title II, § 204, Aug. 21, 1974, 88 Stat. 515.)

EFFECTIVE DATE

Section effective on and after sixtieth day after Aug. 21, 1974, see section 2(c) of Pub. L. 93–380, set out as a note under section 241b of this title.

§ 1704. Balance not required.

The failure of an educational agency to attain a balance, on the basis of race, color, sex, or national origin, of students among its schools shall not constitute a denial of equal educational opportunity, or equal protection of the laws. (Pub. L. 93–380, title II, § 205, Aug. 21, 1974, 88 Stat. 515.)

EFFECTIVE DATE

Section effective on and after sixtieth day after Aug. 21, 1974, see section 2(c) of Pub. L. 93–380, set out as a note under section 241b of this title.

§ 1705. Assignment on neighborhood basis not a denial of equal educational opportunity.

Subject to the other provisions of this subchapter, the assignment by an educational agency of a student to the school nearest his place of residence which provides the appropriate grade level and type of education for such student is not a denial of equal educational opportunity or of equal protection of the laws unless such assignment is for the purpose of segregating students on the basis of race, color, sex, or national origin, or the school to which such student is assigned was located on its site for the purpose of segregating students on such basis. (Pub. L. 93–380, title II, § 206, Aug. 21, 1974, 88 Stat. 515.)

EFFECTIVE DATE

Section effective on and after sixtieth day after Aug. 21, 1974, see section 2(c) of Pub. L. 93–380, set out as a note under section 241b of this title.

PART 3.—ENFORCEMENT

§ 1706. Civil actions by individuals denied equal educational opportunities or by Attorney General.

An individual denied an equal educational opportunity, as defined by this subchapter may institute a civil action in an appropriate district court of the United States against such parties, and for such relief, as may be appropriate. The Attorney General of the United States (hereinafter in this chapter referred to as the "Attorney General"), for or in the name of the United States, may also institute such a civil action on behalf of such an individual. (Pub. L. 93–380, title II, § 207, Aug. 21, 1974, 88 Stat. 516.)

EFFECTIVE DATE

Section effective on and after sixtieth day after Aug. 21, 1974, see section 2(c) of Pub. L. 93–380, set out as a note under section 241b of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1708, 1709, 1710 of this title.

§ 1707. Population changes without effect, per se, on school population changes.

When a court of competent jurisdiction determines that a school system is desegregated, or that it meets the constitutional requirements, or that is a unitary system, or that it has no vestiges of a dual system, and thereafter residential shifts in population occur which result in school population changes in any school within such a desegregated school system, such school population changes so occuring shall not, per se, constitute a cause for civil action for a new plan of desegregation or for modification of the court approved plan. (Pub. L. 93–380, title II, § 208, Aug. 21, 1974, 88 Stat. 516.)

EFFECTIVE DATE

Section effective on and after sixtieth day after Aug. 21, 1974, see section 2(c) of Pub. L. 93–380, set out as a note under section 241b of this title.

§ 1708. Jurisdiction of district courts.

The appropriate district court of the United States shall have and exercise jurisdiction of proceedings instituted under section 1706 of this title. (Pub. L. 93–380, title II, § 209, Aug. 21, 1974, 88 Stat. 516.)

EFFECTIVE DATE

Section effective on and after sixtieth day after Aug. 21, 1974, see section 2(c) of Pub. L. 93–380, set out as a note under section 241b of this title.

§ 1709. Intervention by Attorney General.

Whenever a civil action is instituted under section 1706 of this title by an individual, the Attorney General may intervene in such action upon timely application. (Pub. L. 93–380, title II, § 210, Aug. 21, 1974, 88 Stat. 516.)

EFFECTIVE DATE

Section effective on and after sixtieth day after Aug. 21, 1974, see section 2(c) of Pub. L. 93–380, set out as a note under section 241b of this title.

§ 1710. Civil actions by Attorney General; notice of violations; certification respecting undertaking appropriate remedial action.

The Attorney General shall not institute a civil action under section 1706 of this title before he—

(a) gives to the appropriate educational agency notice of the condition or conditions which, in his judgment, constitute a violation of part 2 of this subchapter; and

(b) certifies to the appropriate district court of the United States that he is satisfied that such educational agency has not, within a reasonable time after such notice, undertaken appropriate remedial action.

(Pub. L. 93–380, title II, § 211, Aug. 21, 1974, 88 Stat. 516.)

EFFECTIVE DATE

Section effective on and after sixtieth day after Aug. 21, 1974, see section 2(c) of Pub. L. 93–380, set out as a note under section 241b of this title.

PART 4.—REMEDIES

PART REFERRED TO IN OTHER SECTIONS

This part is referred to in section 1703 of this title.

§ 1712. Formulating remedies; applicability.

In formulating a remedy for a denial of equal educational opportunity or a denial of the equal protection of the laws, a court, department, or agency of the United States shall seek or impose only such remedies as are essential to correct particular denials of equal educational opportunity or equal protection of the laws. (Pub. L. 93–380, title II, § 213, Aug. 21, 1974, 88 Stat. 516.)

EFFECTIVE DATE

Section effective on and after sixtieth day after Aug. 21, 1974, see section 2(c) of Pub. L. 93–380, set out as a note under section 241b of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1715 of this title.

§ 1713. Priority of remedies.

In formulating a remedy for a denial of equal educational opportunity or a denial of the equal protection of the laws, which may involve directly or indirectly the transportation of students, a court, department, or agency of the United States shall consider and make specific findings on the efficacy in correcting such denial of the following remedies and shall require implementation of the first of the remedies set out below, or of the first combination thereof which would remedy such denial:

(a) assigning students to the schools closest to their places of residence which provide the appropriate grade level and type of education for such students, taking into account school capacities and natural physical barriers;

(b) assigning students to the schools closest to their places of residence which provide the appropriate grade level and type of education for such students, taking into account only school capacities;

(c) permitting students to transfer from a school in which a majority of the students are of their race, color, or national origin to a school in which a minority of the students are of their race, color, or national origin;

(d) the creation or revision of attendance zones or grade structures without requiring transportation beyond that described in section 1714 of this title;

(e) the construction of new schools or the closing of inferior schools;

(f) the construction or establishment of magnet schools; or

(g) the development and implementation of any other plan which is educationally sound and administratively feasible, subject to the provisions of sections 1714 and 1715 of this title.

(Pub. L. 93–380, title II, § 214, Aug. 21, 1974, 88 Stat. 517.)

EFFECTIVE DATE

Section effective on and after sixtieth day after Aug. 21, 1974, see section 2(c) of Pub. L. 93–380, set out as a note under section 241b of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1714, 1715 of this title.

§ 1714. Transportation of students.

(a) Limitation to school closest or next closest to place of students' residence.

No court, department, or agency of the United States shall, pursuant to section 1713 of this title, order the implementation of a plan that would require the transportation of any student to a school other than the school closest or next closest to his place of residence which provides the appropriate grade level and type of education for such student.

(b) Health risks; impingement on educational process.

No court, department, or agency of the United States shall require directly or indirectly the transportation of any student if such transportation poses a risk to the health of such student or constitutes a significant impingement on the educational process with respect to such student.

(c) School population changes resulting from population changes.

When a court of competent jurisdiction determines that a school system is desegregated, or that it meets the constitutional requirements, or that it is a unitary system, or that it has no vestiges of a dual system, and thereafter residential shifts in population occur which result in school population changes in any school within such a desegregated school system, no educational agency because of such shifts shall be required by any court, department, or agency of the United States to formulate, or implement any new desegregation plan, or modify or implement any modification of the court approved desegregation plan, which would require transportation of students to compensate wholly or in part for such shifts in school population so occurring. (Pub. L. 93–380, title II, § 215, Aug. 21, 1974, 88 Stat. 517.)

EFFECTIVE DATE

Section effective on and after sixtieth day after Aug. 21, 1974, see section 2(c) of Pub. L. 93–380, set out as a note under section 241b of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1713 of this title.

§ 1715. District lines.

In the formulation of remedies under section 1712 or 1713 of this title the lines drawn by a State, subdividing its territory into separate school districts,

shall not be ignored or altered except where it is established that the lines were drawn for the purpose, and had the effect, of segregating children among public schools on the basis of race, color, sex, or national origin. (Pub. L. 93–380, title II, § 216, Aug. 21, 1974, 88 Stat. 518.)

EFFECTIVE DATE

Section effective on and after sixtieth day after Aug. 21, 1974, see section 2(c) of Pub. L. 93–380, set out as a note under section 241b of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1713 of this title.

§ 1716. Voluntary adoption of remedies.

Nothing in this subchapter prohibits an educational agency from proposing, adopting, requiring, or implementing any plan of desegregation, otherwise lawful, that is at variance with the standards set out in this subchapter, nor shall any court, department, or agency of the United States be prohibited from approving implementation of a plan which goes beyond what can be required under this subchapter, if such plan is voluntarily proposed by the appropriate educational agency. (Pub. L. 93–380, title II, § 217, Aug. 21, 1974, 88 Stat. 518.)

EFFECTIVE DATE

Section effective on and after sixtieth day after Aug. 21, 1974, see section 2(c) of Pub. L. 93–380, set out as a note under section 241b of this title.

§ 1717. Reopening proceedings.

A parent or guardian of a child, or parents or guardians of children similarly situated, transported to a public school in accordance with a court order, or an educaional agency subject to a court order or a desegregation plan under title VI of the Civil Rights Act of 1964 in effect on August 21, 1974, and intended to end segregation of students on the basis of race, color, or national origin, may seek to reopen or intervene in the further implementation of such court order, currently in effect, if the time or distance of travel is so great as to risk the health of the student or significantly impinge on his or her educational process. (Pub. L. 93–380, title II, § 218, Aug. 21, 1974, 88 Stat. 518.)

REFERENCES IN TEXT

Title VI of the Civil Rights Act of 1964, referred to in text, is classified to section 2000d et seq. of Title 42, The Public Health and Welfare.

EFFECTIVE DATE

Section effective on and after sixtieth day after Aug. 21, 1974, see section 2(c) of Pub. L. 93–380, set out as a note under section 241b of this title.

§ 1718. Limitation on court orders; termination of orders conditioned upon compliance with Fifth and Fourteenth Amendments; statement of basis for termination orders; stay of termination orders.

Any court order requiring, directly or indirectly, the transportation of students for the purpose of remedying a denial of the equal protection of the laws may, to the extent of such transportation, be terminated if the court finds the defendant educational agency has satisfied the requirements of the fifth or fourteenth amendments to the Constitution, whichever is applicable, and will continue to be in compliance with the requirements thereof. The court of initial jurisdiction shall state in its order the basis for any decision to terminate an order pursuant to this section, and the termination of any order pursuant to this section shall be stayed pending a final appeal or, in the event no appeal is taken, until the time for any such appeal has expired. No additional order requiring such educational agency to transport students for such purpose shall be entered unless such agency is found not to have satisfied the requirements of the fifth or fourteenth amendments to the Constitution, whichever is applicable. (Pub. L. 93–380, title II, § 219, Aug. 21, 1974, 88 Stat. 518.)

EFFECTIVE DATE

Section effective on and after sixtieth day after Aug. 21, 1974, see section 2(c) of Pub. L. 93–380, set out as a note under section 241b of this title.

PART 5.—DEFINITIONS

§ 1720. Definitions.

For the purposes of this subchapter—

(a) The term "educational agency" means a local educational agency or a "State educational agency" as defined by section 881(k) of this title.

(b) The term "local educational agency" means a local educational agency as defined by section 881(f) of this title.

(c) The term "segregation" means the operation of a school system in which students are wholly or substantially separated among the schools of an educational agency on the basis of race, color, sex, or national origin or within a school on the basis of race, color, or national origin.

(d) The term "desegregation" means desegregation as defined by section 2000c(b) of Title 42.

(e) An educational agency shall be deemed to transport a student if any part of the cost of such student's transportation is paid by such agency. (Pub. L. 93–380, title II, § 221, Aug. 21, 1974, 88 Stat. 518.)

EFFECTIVE DATE

Section effective on and after sixtieth day after Aug. 21, 1974, see section 2(c) of Pub. L. 93–380, set out as a note under section 241b of this title.

PART 6.—MISCELLANEOUS PROVISIONS

§ 1721. Separability of provisions.

If any provision of this subchapter or of any amendment made by this subchapter, or the application of any such provision to any person or circumstance, is held invalid, the remainder of the provisions of this subchapter and of the amendments made by this subchapter and the application of such provision to other persons or circumstances shall not be affected thereby. (Pub. L. 93–380, title II, § 223, Aug. 21, 1974, 88 Stat. 519.)

EFFECTIVE DATE

Section effective on and after sixtieth day after Aug. 21, 1974, see section 2(c) of Pub. L. 93–380, set out as a note under section 241b of this title.

SUBCHAPTER II.—ASSIGNMENT AND TRANSPORTATION OF STUDENTS

§ 1751. Prohibition against assignment or transportation of students to overcome racial imbalance.

No provision of this Act shall be construed to require the assignment or transportation of students or teachers in order to overcome racial imbalance.

(Pub. L. 93–380, title II, § 251, Aug. 21, 1974, 88 Stat. 519.)

REFERENCES IN TEXT

For classification in the Code of "this Act", referred to in text, meaning Pub. L. 93–380, the Education Amendments of 1974, see Short Title note under section 821 of this title.

EFFECTIVE DATE

Section effective on and after sixtieth day after Aug. 21, 1974, see section 2(c) of Pub. L. 93–380, set out as a note under section 241b of this title.

§ 1752. Appeals from federal district court transfer or transportation orders affecting school attendance areas and achieving balancing of students; postponement of federal court orders pending exercise of appellate remedy; expiration of section.

Notwithstanding any other law or provision of law, in the case of any order on the part of any United States district court which requires the transfer or transportation of any student or students from any school attendance area prescribed by competent State or local authority for the purposes of achieving a balance among students with respect to race, sex, religion, or socioeconomic status, the effectiveness of such order shall be postponed until all appeals in connection with such order have been exhausted or, in the event no appeals are taken, until the time for such appeals has expired. This section shall expire at midnight on June 30, 1978. (Pub. L. 93–380, title II, § 253, Aug. 21, 1974, 88 Stat. 519.)

EFFECTIVE DATE

Section effective on and after sixtieth day after Aug. 21, 1974, see section 2(c) of Pub. L. 93–380, set out as a note under section 241b of this title.

§ 1753. Uniform rules of evidence requirement.

The rules of evidence required to prove that State or local authorities are practicing racial discrimination in assigning students to public schools shall be uniform throughout the United States. (Pub. L. 93–380, title II, § 254, Aug. 21, 1974, 88 Stat. 520.)

EFFECTIVE DATE

Section effective on and after sixtieth day after Aug. 21, 1974, see section 2(c) of Pub. L. 93–380, set out as a note under section 241b of this title.

§ 1754. Provisions respecting transportation of pupils to achieve racial balance and judicial power to insure compliance with constitutional standards applicable to the entire United States.

The proviso of section 2000c–6(a) of Title 42 providing in substance that no court or official of the United States shall be empowered to issue any order seeking to achieve a racial balance in any school by requiring the transportation of pupils or students from one school to another or one school district to another in order to achieve such racial balance, or otherwise enlarge the existing power of the court to insure compliance with constitutional standards shall apply to all public school pupils and to every public school system, public school and public school board, as defined by section 2000c of Title 42, under all circumstances and conditions and at all times in every State, district, territory, Commonwealth, or possession of the United States, regardless of whether the residence of such public school pupils or the principal offices of such public school system, public school or public school board is situated in the northern, eastern, western, or southern part of the United States. (Pub. L. 93–380, title II, § 255, Aug. 21, 1974, 88 Stat. 520.)

EFFECTIVE DATE

Section effective on and after sixtieth day after Aug. 21, 1974, see section 2(c) of Pub. L. 93–380, set out as a note under section 241b of this title.

§ 1755. Additional priority of remedies after finding of de jure segregation.

Notwithstanding any other provision of law, after June 30, 1974 no court of the United States shall order the implementation of any plan to remedy a finding of de jure segregation which involves the transportation of students, unless the court first finds that all alternative remedies are inadequate. (Pub. L. 93–380, title II, § 256, Aug. 21, 1974, 88 Stat. 520.)

EFFECTIVE DATE

Section effective on and after sixtieth day after Aug. 21, 1974, see section 2(c) of Pub. L. 93–380, set out as a note under section 241b of this title.

§ 1756. Remedies with respect to school district lines.

In the formulation of remedies under this chapter the lines drawn by a State subdividing its territory into separate school districts, shall not be ignored or altered except where it is established that the lines were drawn, or maintained or crossed for the purpose, and had the effect of segregating children among public schools on the basis of race, color, sex, or national origin, or where it is established that, as a result of discriminatory actions within the school districts, the lines have had the effect of segregating children among public schools on the basis of race, color, sex, or national origin. (Pub. L. 93–380, title II, § 257, Aug. 21, 1974, 88 Stat. 520.)

EFFECTIVE DATE

Section effective on and after sixtieth day after Aug. 21, 1974, see section 2(c) of Pub. L. 93–380, set out as a note under section 241b of this title.

§ 1757. Prohibition of forced busing during school year.

(a) Congressional findings.

The Congress finds that—

(1) the forced transportation of elementary and secondary school students in implementation of the constitutional requirement for the desegregation of such schools is controversial and difficult under the best planning and administration; and

(2) the forced transportation of elementary and secondary school students after the commencement of an academic school year is educationally unsound and administratively inefficient.

(b) Student transportation orders incidental to student transfers pursuant to school desegregation plans effective beginning with academic school year.

Notwithstanding any other provisions of law, no order of a court, department, or agency of the United States, requiring the transportation of any student incident to the transfer of that student from one elementary or secondary school to another such school in a local educational agency pursuant to a plan requiring such transportation for the racial desegregation of any school in that agency, shall be effective until the beginning of an academic school year.

(c) "Academic school year" defined.

For the purpose of this section, the term "academic school year" means, pursuant to regulations promulgated by the Commissioner, the customary beginning of classes for the school year at an elementary or secondary school of a local educational agency for a school year that occurs not more often than once in any twelve-month period.

(d) Orders subject to provisions of section.

The provisions of this section apply to any order which was not implemented at the beginning of the 1974–1975 academic year. (Pub. L. 93–380, title II, § 258, Aug. 21, 1974, 88 Stat. 520.)

EFFECTIVE DATE

Section effective on and after sixtieth day after Aug. 21, 1974, see section 2(c) of Pub. L. 93–380, set out as a note under section 241b of this title.

§ 1758. Reasonable time for developing voluntary school desegregation plans following detailed notice of violations.

Notwithstanding any other law or provision of law, no court or officer of the United States shall enter, as a remedy for a denial of equal educational opportunity or a denial of equal protection of the laws, any order for enforcement of a plan of desegregation or modification of a court-approved plan, until such time as the local educational agency to be affected by such order has been provided notice of the details of the violation and given a reasonable opportunity to develop a voluntary remedial plan. Such time shall permit the local educational agency sufficient opportunity for community participation in the development of a remedial plan. (Pub. L. 93–380, title II, § 259, Aug. 21, 1974, 88 Stat. 521.)

EFFECTIVE DATE

Section effective on and after sixtieth day after Aug. 21, 1974, see section 2(c) of Pub. L. 93–380, set out as a note under section 241b of this title.

Chapter 40.—CONSOLIDATION OF EDUCATION PROGRAMS [NEW]

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CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in section 847a of this title.

SUBCHAPTER I.—LIBRARIES, LEARNING RESOURCES, EDUCATIONAL INNOVATION, AND SUPPORT

PART A.—GENERAL PROVISIONS

§ 1801. Authorization of appropriations.

(a) (1) Subject to the provisions of paragraph (2), there is authorized to be appropriated the sum of $395,000,000 for obligation by the Commissioner during the fiscal year ending June 30, 1976, and such sums as may be necessary for obligation by the Commissioner during each of the two succeeding fiscal years, for the purpose of making grants under part B (Libraries and Learning Resources) of this subchapter.

(2) No funds are authorized to be appropriated under this subsection for obligation by the Commissioner during any fiscal year unless—

(A) (i) aggregate amount which would be appropriated under this subsection is at least equal to the aggregate amount appropriated for obligation by the Commissioner during the preceding fiscal year in which part B was in effect, or

(ii) in the case of appropriations under this subsection for the first fiscal year in which part B is effective, such amount is at least equal to the aggregate amount appropriated for obligation by the Commissioner for the fiscal year ending June 30, 1974, or for the preceding fiscal year, whichever is higher, under title II and so much of title III as relates to testing, guidance, and counseling of this Act, and under title III (except for section 305) of the National Defense Education Act of 1958, and

(B) the sums appropriated pursuant to this subsection are included in an Act making appropriations for the fiscal year prior to the fiscal year in which such sums will be obligated, and are made available for expenditure prior to the beginning of such fiscal year.

(b) (1) Subject to the provisions of paragraph (2), there is authorized to be appropriated the sum of $350,000,000 for obligation by the Commissioner during the fiscal year ending June 30, 1976, and such sums as may be necessary for obligation by the Commissioner during each of the two succeeding fiscal years, for the purpose of making grants under part C (Educational Innovation and Support) of this subchapter.

(2) No funds are authorized to be appropriated under this subsection for obligation by the Commissioner during any fiscal year unless—

(A) (i) the aggregate amount which would be appropriated under this subsection is at least equal to the aggregate amount appropriated for obligation by the Commissioner during the preceding fiscal year in which part C was in effect, or

(ii) in the case of appropriations under this subsection for the first fiscal year in which part C is effective, such amount is at least equal to the aggregate amount appropriated for obligation by the Commissioner for fiscal year ending June 30, 1974, or for the preceding fiscal year, whichever is higher, under title III (except for programs of testing, guidance, and counseling), title V, and sections 807 and 808 of this Act, and

(B) the sums appropriated pursuant to this subsection are included in an Act making appropriations for the fiscal year prior to the fiscal year in which such sums will be obligated, and are made available for expenditure prior to the beginning of such fiscal year.

(c)(1) In the first fiscal year in which appropriations are made pursuant to part B, 50 per centum of the funds so appropriated shall be available to the States to carry out part B of this subchapter. The remainder of such funds shall be available to the States and shall be allotted to the States, or to the Commissioner, as the case may be, in such year pursuant to title II and so much of title III as relates to testing, guidance, and counseling under this Act, and under title III (except for section 305) of the National Defense Education Act of 1958, for each such program in an amount which bears the same ratio to such remainder as the amount appropriated for each such program for the fiscal year ending June 30, 1974, or for the fiscal year preceding the fiscal year for which the determination is made, whichever is higher, bears to the aggregate of such appropriated amounts. The amounts made available under the second sentence of this paragraph shall be subject to the provisions of law governing each such program.

(2) In the first fiscal year in which appropriations are made pursuant to part C, 50 per centum of the funds so appropriated shall be available to carry out part C of this subchapter. The remainder of such funds shall be available to the States and shall be allotted to the States, or to the Commissioner, as the case may be, in such year, pursuant to title III (except for programs of testing, guidance, and counseling), title V, and sections 807 and 808 of this Act, for each such program in an amount which bears the same ratio to such remainder as the amount appropriated for each such program for the fiscal year ending June 30, 1974, or for the fiscal year preceding the fiscal year for which the determination is made, whichever is higher, bears to the aggregate of such appropriated amounts. The amount made available under the second sentence of this paragraph shall be subject to the provisions of law governing each such program. (Pub. L. 89–10, title IV, § 401, as added Pub. L. 93–380, title IV, § 401, Aug. 21, 1974, 88 Stat. 535.)

REFERENCES IN TEXT

Title II and title III of this Act, referred to in subsecs. (a)(2)(A)(ii) and (c)(1), are classified to sections 821 et seq. and 841 et seq. of this title.

Title III of National Defense Education Act of 1958, and section 305, referred to in subsecs. (a)(2)(A)(ii) and (c)(1), are classified to sections 441 et seq. and 445 of this title, respectively.

Title III, title V, and sections 807 and 808 of this Act, referred to in subsecs. (b)(2)(ii) and (c)(2), are classified to sections 841 et seq., 861 et seq., 887, and 887a of this title, respectively.

EFFECTIVE DATE

Section 410 of Pub. L. 93–380 provided that: "Except where otherwise specified in this title [section 402(c)(1)–(3) of Pub. L. 93–380, respecting enactment of sections 1851 to 1853 and 1861 and repeal of sections 844a(d), 844b, 845(c), and 887b of this title; and section 407(b) of Pub. L. 93–380, respecting amendment of section 887d(d) of this title], the amendments made by, and the provisions of, this title [amending section 887d(a) and (b)(1)(C) and enacting sections 1801 to 1806, 1821, 1831, 1832, and 1862 to 1867 of this title] shall be effective on and after the date of enactment of this Act [Aug. 21, 1974]."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1802, 1803 of this title.

§ 1802. Allotments to States.

(a) Authorization of appropriations; amount; "State" defined.

(1) There is hereby authorized to be appropriated for each fiscal year for the purposes of this paragraph amounts equal to not more than 1 per centum of each of the amounts appropriated for such year under subsection (a) or (b), or both, of section 1801 of this title. The Commissioner shall allot each of the amounts appropriated pursuant to this paragraph among Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands according to their respective needs for assistance under part B or part C, or both, of this subchapter. In addition, for each fiscal year he shall allot from each of such amounts to (A) the Secretary of the Interior the amounts necessary for the programs authorized by each such part for children and teachers in elementary and secondary schools operated for Indian children by the Department of the Interior, and (B) the Secretary of Defense the amounts necessary for the programs authorized by each such part for children and teachers in the overseas dependent schools of the Department of Defense. The terms upon which payment for such purposes shall be made to the Secretary of the Interior and the Secretary of Defense shall be determined pursuant to such criteria as the Commissioner determines will best carry out the purposes of this subchapter.

(2) From the amounts appropriated to carry out part B or part C, or both, of this subchapter for any fiscal year pursuant to subsections (a) and (b) of section 1801 of this title, the Commissioner shall allot to each State from each such amount an amount which bears the same ratio to such amount as the number of children aged five to seventeen, inclusive, in the State bears to the number of such children in all the States. For the purposes of this subsection, the term "State" shall not include Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands. The number of children aged five to seventeen, inclusive, in a State and in all the States shall be determined by the Commissioner on the basis of the most recent satisfactory data available to him.

(b) Reallotment of funds not required to carry out Part B or C.

The amount of any State's allotment under subsection (a) of this section for any fiscal year to carry out part B or C which the Commissioner determines will not be required for such fiscal year to carry out such part shall be available for reallotment from time to time, on such dates during such year as the Commissioner may fix, to other States in proportion to the original allotments to such States under subsection (a) of this section for that year but with such proportionate amount for any of such other States being reduced to the extent it exceeds the sum the Commissioner estimates such State needs

and will be able to use for such year; and the total of such reductions shall be similarly reallotted among the States whose proportionate amounts were not so reduced. Any amounts reallotted to a State under this subsection during a year from funds appropriated pursuant to section 1801 of this title shall be deemed a part of its allotment under subsection (a) of this section for such year. (Pub. L. 89–10, title IV, § 402, as added Pub. L. 93–380, title IV, § 401, Aug. 21, 1974, 88 Stat. 537.)

EFFECTIVE DATE

Section effective on and after Aug. 21, 1974, see section 410 of Pub. L. 93–380, set out as a note under section 1801 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1803, 1805 of this title.

§ 1803. State plans.

(a) State advisory council; establishment; submission of State plans to Commissioner; required provisions.

Any State which desires to receive grants under this subchapter shall establish an advisory council as provided by susbection (b) of this section and shall submit to the Commissioner a State plan, in such detail as the Commissioner deems necessary, which—

(1) designates the State educational agency as the State agency which shall, either directly or through arrangements with other State or local public agencies, act as the sole agency for the administration of the State plan;

(2) sets forth a program under which funds paid to the State from its allotments under section 1802 of this title will be expended solely for the programs and purposes authorized by parts B and C of this subchapter, and for administration of the State plan;

(3) provides assurances that the requirements of section 1806 of this title (relating to the participation of pupils and teachers in nonpublic elementary and secondary schools) will be met, or certifies that such requirements cannot legally be met in such State;

(4) provides assurances that (A) funds such agency receives from appropriations made under section 1801(a) of this title will be distributed among local educational agencies according to the enrollments in public and nonpublic schools within the school districts of such agencies, except that substantial funds will be provided to (i) local educational agencies whose tax effort for education is substantially greater than the State average tax effort for education, but whose per pupil expenditure (excluding payments made under title I of this Act) is no greater than the average per pupil expenditure in the State, and (ii) local educational agencies which have the greatest numbers or percentages of children whose education imposes a higher than average cost per child, such as children from low-income families, children living in sparsely populated areas, and children from families in which English is not the dominant language; and (B) funds such agency receives from appropriations made under section 1801(b) of this title will be distributed among local educational agencies on an equitable basis recognizing the competitive nature of the grantmaking except that the State educational agency shall provide assistance in formulating proposals and in operating programs to local educational agencies which are less able to compete due to small size or lack of local financial resources; and the State plan shall set forth the specific criteria the State educational agency has developed and will apply to meet the requirements of this paragraph;

(5) provides that each local educational agency will be given complete discretion (subject to the provisions of section 1806 of this title) in determining how the funds it receives from appropriations made under section 1801(a) of this title will be divided among the various programs described in section 1821 of this title, except that, in the first year in which appropriations are made pursuant to part B, each local educational agency will be given complete discretion with respect to 50 per centum of the funds appropriated for that part attributable to that local educational agency;

(6) provides for the adoption of effective procedures (A) for an evaluation by the State advisory council, at least annually, of the effectiveness of the programs and projects assisted under the State plan, (B) for the appropriate dissemination of the results of such evaluations and other information pertaining to such programs or projects, and (C) for the adoption, where appropriate, of promising educational practices developed through innovative programs supported under part C;

(7) provides that local educational agencies applying for funds under any program under this subchapter shall be required to submit only one application for such funds for any one fiscal year;

(8) provides—

(A) that, of the funds the State receives under section 1801 of this title for the first fiscal year for which such funds are available, such agency will use for administration of the State plan not to exceed whichever is greater (i) 5 per centum of the amount so received ($50,000 in the case of Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands), excluding any part of such amount used for purposes of section 1831(a)(3) of this title, or (ii) the amount it received for the fiscal year ending June 30, 1973, for administration of the programs referred to in sections 1821(b) and 1831(b) of this title, and that the remainder of such funds shall be made available to local educational agencies to be used for the purposes of parts B and C, respectively; and that, of the funds the State receives under section 1801 of this title for fiscal years thereafter, it will use for administration of the State plan not to exceed whichever is greater (i) 5 per centum of the amount so received ($50,000 in the case of Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands), excluding any part of such amount used for purposes of section 1831(a)(3) of this

title, or (ii) $225,000, and that the remainder of such funds shall be made available to local educational agencies to be used for purposes of parts B and C, respectively,

(B) that not less than 15 per centum of the amount received pursuant to section 1801(b) of this title in any fiscal year (not including any amount used for purposes of section 1831(a)(3) of this title) shall be used for special programs or projects for the education of children with specific learning disabilities and handicapped children, and

(C) that not more than the greater of (i) 15 per centum of the amount which such State receives pursuant to section 1801(b) of this title in any fiscal year, or (ii) the amount available by appropriation to such State in the fiscal year ending June 30, 1973, for purposes covered by section 1831(a)(3) of this title, shall be used for purposes of section 1831(a)(3) of this title (relating to strengthening State and local educational agencies);

(9) provides assurances that in the case of any project for the repair, remodeling, or construction of facilities, that the facilities shall be accessible to and usable by handicapped persons;

(10) sets forth policies and procedures which give satisfactory assurance that Federal funds made available under this subchapter for any fiscal year will not be commingled with State funds; and

(11) gives satisfactory assurance that the aggregate amount to be expended by the State and its local educational agencies from funds derived from non-Federal sources for programs described in section 1821(a) of this title for a fiscal year will not be less than the amount so expended for the preceding fiscal year.

(b) State advisory council; membership; duties; report and certification to Commissioner; meetings; personnel.

(1) The State advisory council, established pursuant to subsection (a) of this section, shall—

(A) be appointed by the State educational agency or as otherwise provided by State law and be broadly representative of the cultural and educational resources of the State (as defined in section 1832 of this title) and of the public, including persons representative of—

(i) public and private elementary and secondary schools,

(ii) institutions of higher education, and

(iii) fields of professional competence in dealing with children needing special education because of physical or mental handicaps, specific learning disabilities, severe educational disadvantage, and limited English-speaking ability or because they are gifted or talented, and of professional competence in guidance and counseling;

(B) advise the State educational agency on the preparation of, and policy matters arising in the administration of, the State plan, including the development of criteria for the distribution of funds and the approval of applications for assistance under this subchapter;

(C) evaluate all programs and projects assisted under this subchapter; and

(D) prepare at least annually and submit through the State educational agency a report of its activities, recommendations, and evaluations, together with such additional comments as the State educational agency deems appropriate, to the Commissioner.

(2) Not less than ninety days prior to the beginning of any fiscal year for which funds will be available for carrying out this subchapter, each State shall certify the establishment of, and membership of (including the name of the person designated as Chairman), its State advisory council to the Commissioner.

(3) Each State advisory council shall meet within thirty days after certification has been accepted by the Commissioner and establish the time, place, and manner of its future meetings, except that such council shall have not less than one public meeting each year at which the public is given an opportunity to express views concerning the administration and operation of this subchapter.

(4) Each State advisory council shall be authorized to obtain the services of such professional, technical, and clerical personnel, and to contract for such other services as may be necessary to enable them to carry out their functions under this subchapter, and the Commissioner shall assure that funds sufficient for these purposes are made available to each council from funds available for administration of the State plan.

(c) Approval by Commissioner.

The Commissioner shall approve any State plan and any modification thereof which complies with the provisions of subsections (a) and (b) of this section. (Pub. L. 89–10, title IV, § 403, as added Pub. L. 93–380, title IV, § 401, Aug. 21, 1974, 88 Stat. 538.)

REFERENCES IN TEXT

Title I of this Act, referred to in subsec. (a)(4), is classified to section 241a et seq. of this title.

EFFECTIVE DATE

Section effective on and after Aug. 21, 1974, see section 410 of Pub. L. 93–380, set out as a note under section 1801 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1821, 1831 of this title.

§ 1804. Administration of State plans.

The Commissioner shall not finally disapprove any State plan submitted under this subchapter, or any modification thereof, without first affording the State educational agency reasonable notice and opportunity for a hearing. (Pub. L. 89–10, title IV, § 404, as added Pub. L. 93–380, title IV, § 401, Aug. 21, 1974, 88 Stat. 540.)

EFFECTIVE DATE

Section effective on and after Aug. 21, 1974, see section 410 of Pub. L. 93–380, set out as a note under section 1801 of this title.

§ 1805. Payments to States.

From the amounts allotted to each State under section 1802 of this title for carrying out the programs authorized by parts B and C, respectively, the Commissioner shall pay to that State an amount equal to the amount expended by the State in carrying out its State plan (after withholding any amount necessary pursuant to section 1806(f) of this title). (Pub. L. 89–10, title IV, § 405, as added Pub. L. 93–380, title IV, § 401, Aug. 21, 1974, 88 Stat. 541.)

EFFECTIVE DATE

Section effective on and after Aug. 21, 1974, see section 410 of Pub. L. 93–380, set out as a note under section 1801 of this title.

§ 1806. Participation of children enrolled in private schools.

(a) Secular, neutral, and nonideological services, materials, and equipment and other arrangements for benefit of children in private schools.

To the extent consistent with the number of children in the school district of a local educational agency (which is a recipient of funds under this subchapter or which serves the area in which a program or project assisted under this subchapter is located) who are enrolled in private nonprofit elementary and secondary schools, such agency, after consultation with the appropriate private school officials, shall provide for the benefit of such children in such schools secular, neutral, and nonideological services, materials, and equipment including the repair, minor remodeling, or construction of public school facilities as may be necessary for their provision (consistent with subsection (c) of this section), or, if such services, materials, and equipment are not feasible or necessary in one or more such private schools as determined by the local educational agency after consultation with the appropriate private school officials, shall provide such other arrangements as will assure equitable participation of such children in the purposes and benefits of this subchapter.

(b) Equal expenditures.

Expenditures for programs pursuant to subsection (a) of this section shall be equal (consistent with the number of children to be served) to expenditures for programs for children enrolled in the public schools of the local educational agency, taking into account the needs of the individual children and other factors (pursuant to criteria supplied by the Commissioner) which relate to such expenditures, and when funds available to a local educational agency under this subchapter are used to concentrate programs or projects on a particular group, attendance area, or grade or age level, children enrolled in private schools who are included within the group, attendance areas, or grade or age level selected for such concentration shall, after consultation with the appropriate private school officials, be assured equitable participation in the purposes and benefits of such programs or projects.

(c) Administration.

(1) The control of funds provided under this subchapter and title to materials, equipment, and property repaired, remodeled, or constructed therewith shall be in a public agency for the uses and purposes provided in this subchapter, and a public agency shall administer such funds and property.

(2) The provision of services pursuant to this section shall be provided by employees of a public agency or through contract by such public agency with a person, an association, agency, or corporation who or which in the provision of such services is independent of such private school and of any religious organization, and such employment or contract shall be under the control and supervision of such public agency, and the funds provided under this subchapter shall not be commingled with State or local funds.

(d) Waiver of requirement of State participation.

If a State is prohibited by law from providing for the participation in programs of children enrolled in private elementary and secondary schools, as required by this section, the Commissioner may waive such requirement and shall arrange for the provision of services to such children through arrangements which shall be subject to the requirements of this section.

(e) Arrangements for services where State agency fails to provide for participation on equitable basis.

If the Commissioner determines that a State or a local educational agency has substantially failed to provide for the participation on an equitable basis of children enrolled in private elementary and secondary schools as required by this section, he shall arrange for the provision of services to such children through arrangements which shall be subject to the requirements of this section.

(f) Payment of cost of arranged services from appropriate State allotments.

When the Commissioner arranges for services pursuant to this section, he shall, after consultation with the appropriate public and private school officials, pay the cost of such services from the appropriate allotment of the State under this subchapter.

(g) Final action of Commissioner; notice and hearing; petition for review; transmittal of copy to Commissioner; record of proceedings; fact findings; conclusiveness of determinations; remand; jurisdiction of court of appeals; review by Supreme Court.

(1) The Commissioner shall not take any final action under this section until he has afforded the State educational agency and local educational agency affected by such action at least sixty days notice of his proposed action and an opportunity for a hearing with respect thereto on the record.

(2) If a State or local educational agency is dissatisfied with the Commissioner's final action after a hearing under subparagraph (A) of this paragraph, it may within sixty days after notice of such action, file with the United States court of appeals for the circuit in which such State is located a petition for review of that action. A copy of the petition shall be forthwith transmitted by the clerk of the court to the Commissioner. The Commissioner thereupon shall file in the court the record of the proceedings on which he based his action, as provided in section 2112 of Title 28.

(3) The findings of fact by the Commissioner, if supported by substantial evidence, shall be conclusive; but the court, for good cause shown, may remand the case to the Commissioner to take further evidence, and the Commissioner may thereupon make new or modified findings of fact and may modify his previous action, and shall file in the court the record of the further proceedings. Such new or modified findings of fact shall likewise be conclusive if supported by substantial evidence.

(4) Upon the filing of such petition, the court shall have jurisdiction to affirm the action of the Commissioner or to set it aside, in whole or in part. The judgment of the court shall be subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of Title 28. (Pub. L. 89–10, title IV, § 406, as added Pub. L. 93–380, title IV, § 401, Aug. 21, 1974, 88 Stat. 541.)

EFFECTIVE DATE

Section effective on and after Aug. 21, 1974, see section 410 of Pub. L. 93–380, set out as a note under section 1801 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1803, 1805 of this title.

PART B.—LIBRARIES AND LEARNING RESOURCES

PART REFERRED TO IN OTHER SECTIONS

This part is referred to in sections 441, 821, 1801–1803, 1805 of this title.

§ 1821. Programs authorized.

(a) Grants to States for prescribed programs.

The Commissioner shall carry out a program for making grants to the States (pursuant to State plans approved under section 1803 of this title)—

(1) for the acquisition of school library resources, textbooks, and other printed and published instructional materials for the use of children and teachers in public and private elementary and secondary schools;

(2) for the acquisition of instructional equipment (including laboratory and other special equipment, including audio-visual materials and equipment suitable for use in providing education in academic subjects) for use by children and teachers in elementary and secondary schools, and for minor remodeling of laboratory or other space used by such schools for such equipment; and

(3) for (A) a program of testing students in the elementary and secondary schools, (B) programs of counseling and guidance services for students at the appropriate levels in elementary and secondary schools designed (i) to advise students of courses of study best suited to their ability, aptitude, and skills, (ii) to advise students with respect to their decisions as to the type of educational program they should pursue, the vocation they should train for and enter, and the job opportunities in the various fields, and (iii) to encourage students to complete their secondary school education, take the necessary courses for admission to postsecondary institutions suitable for their occupational or academic needs, and enter such institutions, and such programs may include short-term sessions for persons engaged in guidance and counseling in elementary and secondary schools, and (C) programs, projects, and leadership activities designed to expand and strengthen counseling and guidance services in elementary and secondary schools.

(b) Single authorization and use of funds for combined programs under authorizing provisions.

It is the purpose of this part to combine within a single authorization, subject to the modifications imposed by the provisions and requirements of this subchapter, the programs authorized by title II and so much of title III as relates to testing, counseling, and guidance, of this Act, and title III (except for section 305 thereof) of the National Defense Education Act of 1958, and funds appropriated to carry out this part must be used only for the same purposes and for the funding of the same types of programs authorized under those provisions. (Pub. L. 89–10, title IV, § 421, as added Pub. L. 93–380, title IV, § 401, Aug. 21, 1974, 88 Stat. 542.)

REFERENCES IN TEXT

Title II and title III of this Act, referred to in subsec. (b), are classified to sections 821 et seq. and 841 et seq. of this title.

Title III of National Defense Education Act of 1958, and section 305, referred to in subsec. (b), are classified to sections 441 et seq. and 445 of this title, respectively.

EFFECTIVE DATE

Section effective on and after Aug. 21, 1974, see section 410 of Pub. L. 93–380, set out as a note under section 1801 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1803 of this title.

PART C.—EDUCATIONAL INNOVATION AND SUPPORT

PART REFERRED TO IN OTHER SECTIONS

This part is referred to in sections 841, 861, 866, 867, 887, 887a, 1231b–1, 1801–1803, 1805 of this title.

§ 1831. Programs authorized.

(a) Grants to States for prescribed programs.

The Commissioner shall carry out a program for making grants to the States (pursuant to State plans approved under section 1803 of this title)—

(1) for supplementary educational centers and services to stimulate and assist in the provision of vitally needed educational services (including preschool education, special education, compensatory education, vocational education, education of gifted and talented children, and dual enrollment programs) not available in sufficient quantity or quality, and to stimulate and assist in the development and establishment of exemplary elementary and secondary school programs (including the remodeling, lease, or construction of necessary facilities) to serve as models for regular school programs;

(2) for the support of demonstration projects by local educational agencies or private educational organizations designed to improve nutrition and health services in public and private elementary and secondary schools serving areas with high concentrations of children from low-income families and such projects may include payment of the cost of (A) coordinating nutrition and health service resources in the areas to be served by a

project, (B) providing supplemental health, mental health, nutritional, and food services to children from low-income families when the resources for such services available to the applicant from other sources are inadequate to meet the needs of such children, (C) nutrition and health programs designed to train professional and other school personnel to provide nutrition and health services in a manner which meets the needs of children from low-income families for such services, and (D) the evaluation of projects assisted with respect to their effectiveness in improving school nutrition and health services for such children;

(3) for strengthening the leadership resources of State and local educational agencies, and for assisting those agencies in the establishment and improvement of programs to identify and meet educational needs of States and of local school districts; and

(4) for making arrangements with local educational agencies for the carrying out by such agencies in schools which (A) are located in urban or rural areas, (B) have a high percentage of children from low-income families, and (C) have a high percentage of such children who do not complete their secondary school education, of demonstration projects involving the use of innovative methods, systems, materials, or programs which show promise of reducing the number of such children who do not complete their secondary school education.

(b) Single authorization and use of funds for combined programs under authorizing provisions.

It is the purpose of this part to combine within a single authorization, subject to the modifications imposed by the provisions and requirements of this subchapter, the programs authorized by title III (except for programs of testing, counseling, and guidance) and title V, and sections 807 and 808 of this Act, and funds appropriated to carry out this part must be used only for the same purposes and for the funding of the same types of programs authorized under those provisions. (Pub. L. 89–10, title IV, § 431, as added Pub. L. 93–380, title IV, § 401, Aug. 21, 1974, 88 Stat. 543.)

REFERENCES IN TEXT

Title III, title V, and sections 807 and 808 of this Act, referred to in subsec. (b), are classified to sections 841 et seq., 861 et seq., 887, and 887a of this title, respectively.

EFFECTIVE DATE

Section effective on and after Aug. 21, 1974, see section 410 of Pub. L. 93–380, set out as a note under section 1801 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1803, 1832 of this title.

§ 1832. Use of cultural and educational resources.

Programs or projects supported pursuant to this part (other than those described in section 1831(a)(3) of this title) shall involve in the planning and carrying out thereof the participation of persons broadly representative of the cultural and educational resources of the area to be served. The term "cultural and educational resources" includes State educational agencies, local educational agencies, private nonprofit elementary and secondary schools, institutions of higher education, public and nonprofit private agencies such as libraries, museums, musical and artistic organizations, educational radio and television, and other cultural and educational resources. (Pub. L. 89–10, title IV, § 432, as added Pub. L. 93–380, title IV, § 401, Aug. 21, 1974, 88 Stat. 544.)

EFFECTIVE DATE

Section effective on and after Aug. 21, 1974, see section 410 of Pub. L. 93–380, set out as a note under section 1801 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1803 of this title.

SUBCHAPTER II.—SPECIAL PROJECTS

§ 1851. Statement of purpose.

It is the purpose of this subchapter to authorize the Commissioner of Education (hereinafter referred to as the "Commissioner") to carry out special projects—

(1) to experiment with new educational and administrative methods, techniques, and practices;

(2) to meet special or unique educational needs or problems; and

(3) to place special emphasis on national education priorities.

(July 26, 1954, ch. 576, § 2, as added Aug. 21, 1974, Pub. L. 93–380, title IV, § 402(a)(1), 88 Stat. 544.)

EFFECTIVE DATE

Section 402(c)(1) of Pub. L. 93–380 provided that: "The amendments made by subsection (a) [enacting sections 1851 to 1853 of this title] and the provisions of subsection (b) [classified to section 1861 of this title] shall be effective on and after July 1, 1975."

SHORT TITLE

Section 1 of act July 26, 1954, ch. 576, as added Aug. 21, 1974, Pub. L. 93–380, title IV, § 402(a)(1), 88 Stat. 544, provided: "That this Act [this subchapter] may be cited as the 'Special Projects Act'."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1852 of this title.

§ 1852. Contracting authority; priorities and preferences.

(a) The Commissioner is authorized, during the period beginning July 1, 1975, and ending June 30, 1978, to make contracts with public and private agencies, organizations, associations, institutions, and with individuals in order to carry out the purposes of this subchapter as set forth in section 1851 of this title.

(b) In exercising his authority under this section, the Commissioner shall comply with such priorities and preferences as may be expressly provided by law, with respect to this section. (July 26, 1954, ch. 576, § 3, as added Aug. 21, 1974, Pub. L. 93–380, title IV, § 402(a)(1), 88 Stat. 544.)

EFFECTIVE DATE

Section effective on and after July 1, 1975, see section 402(c)(1) of Pub. L. 93–380, set out as a note under section 1851 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1853, 1861 of this title.

§ 1853. Expenditure plan and report.

(a) Authorization of appropriations for section 1852 contracts.

(1) In order to enable the Commissioner to make contracts under section 1852 of this title, there is authorized, subject to subsection (b) of this section, to be appropriated to the Office of Education $200,000,000 for the fiscal year ending June 30, 1976, and each of the two succeeding fiscal years.

(2) Sums appropriated pursuant to paragraph (1) shall, notwithstanding any other provisions of law, unless enacted in express limitation of this paragraph, remain available until expended.

(b) Submittal to congressional committees; resolution of disapproval; submission of new plan.

(1) Not later than February 1 of each year, the Commissioner shall submit to the Committee on Education and Labor of the House of Representatives and the Committee on Labor and Public Welfare of the Senate a plan in accordance with which the Commissioner has determined to expend funds to be appropriated for the succeeding fiscal year. Such plan shall be accompanied by a report describing each contract made during the calendar year preceding that fiscal year under the authority of this subchapter involving an expenditure in excess of $100,000.

(2)(A) The funds appropriated pursuant to subsection (a) of this section for any fiscal year shall be expended in accordance with the plan submitted for that year pursuant to paragraph (1), unless prior to sixty days after the submission of such plan, either the Committee on Education and Labor of the House of Representatives or the Committee on Labor and Public Welfare of the Senate adopts a resolution disapproving such plan.

(B) If either or both such committees adopts a resolution of disapproval as provided in subparagraph (A), the Commissioner shall, not later than fifteen days after the adoption of any such resolution, submit a new plan in accordance with paragraph (1) and subparagraph (A). (July 26, 1954, ch. 576, § 4, as added Aug. 21, 1974, Pub. L. 93-380, title IV, § 402(a)(1), 88 Stat. 545.)

EFFECTIVE DATE

Section effective on and after July 1, 1975, see section 402(c)(1) of Pub. L. 93-380, set out as a note under section 1851 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1861 of this title.

SUBCHAPTER III.—PREFERENTIAL PROGRAMS

§ 1861. Reservation and apportionment of funds for certain authorized and described programs.

(1) Minimum percentage; grant and contract authorization.

In carrying out his functions under section 1852 of this title, the Commissioner shall reserve not less than 50 per centum of the sums appropriated pursuant to section 1853 of this title for the purposes given preference under paragraph (3) of this subsection and apportioned in accordance with paragraph (2) of this subsection. With respect to the funds to which this paragraph applies, the Commissioner's authority under such section 1852 of this title shall include authority to make grants as well as contracts.

(2) Apportionment of funds.

Except as is otherwise provided with respect to section 1867 of this title, the Commissioner shall apportion an amount for each of the purposes set forth in paragraph (3) which bears the same ratio to the sums reserved pursuant to paragraph (1) as the amount permitted to be expended for each such purpose bears to the aggregate of the amounts permitted to be expended for all such purposes.

(3) Description of specific programs.

The sums reserved pursuant to paragraph (1) shall be expended for programs otherwise authorized by an applicable statute and described in the following subparagraphs:

Education for the Use of the Metric System of Measurement

(A) A program to encourage educational agencies and institutions to prepare students to use the metric system of measurement, as provided in section 1862 of this title.

Gifted and Talented Children

(B) A program for the education of gifted and talented children through grants to the States for such purpose, as provided in section 1863 of this title (except subsection (f) thereof).

Community Schools

(C) A program of grants to local educational agencies to assist them in planning, establishing, expanding, and operating community education programs, as provided in section 1864 of this title.

Career Education

(D) A program to assess, and to encourage establishment and operation of, career education programs, as provided in section 1865 of this title.

Consumers' Education

(E) A program of grants and contracts designed to provide consumer education to the public, as provided in section 887d of this title.

Women's Equity in Education

(F) A program of grants and contracts designed to provide educational equity for women in the United States, as provided in section 1866 of this title.

Arts in Education Programs

(G) A program of grants and contracts designed to assist and encourage the use of the arts in elementary and secondary school programs as provided in section 1867 of this title.

(4) Availability of funds under this section for certain programs barring other appropriations for such programs.

No appropriation may be made for any fiscal year for the purposes of section 887d of this title or sections 1862, 1863, 1864, 1865, 1866 and 1867 of this title during which funds are available for the purposes of such sections under the provisions of this section. (Pub. L. 93–380, title IV, § 402(b), Aug. 21, 1974, 88 Stat. 545.)

EFFECTIVE DATE

Section effective on and after July 1, 1975, see section 402(c)(1) of Pub. L. 93–380, set out as a note under section 1851 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1864 of this title.

§ 1862. Education for use of metric system of measurement.

(a) Congressional findings and declaration of policy; "metric system of measurement" defined.

(1) The Congress finds that—

(A) the metric system of measurement is in general use in industrially developed nations and its use is increasing;

(B) increased use of such metric system in the United States is inevitable, and such a metric system will become the dominant system of weights and measures in the United States; and

(C) there is no existing Federal program designed to teach children to use such metric system and such a program is necessary if the American people are to adapt to the use of the metric system of weights and measures.

(2) It is the policy of the United States to encourage educational agencies and institutions to prepare students to use the metric system of measurement with ease and facility as a part of the regular education program.

(3) For the purposes of this section, the term "metric system of measurement" means the International System of Units as established by the General Conference of Weights and Measures in 1960 and interpreted or modified for the United States by the Secretary of Commerce.

(b) Grant and contract authorization; eligible agencies, institutions, and organizations.

(1) The Commissioner shall carry out a program of grants and contracts in order to encourage educational agencies and institutions to prepare students to use the metric system of measurement.

(2) The Commissioner is authorized to make grants to, and contracts with, institutions of higher education, State and local educational agencies, and other public and private nonprofit agencies, organizations, and institutions to develop and carry out the policy set forth in subsection (a) of this section.

(c) Financial assistance; applications to Commissioner: time of submission, form, contents, conditions for approval, and State educational agency approval of local educational agency applications.

(1) Financial assistance under this section may be made available only upon application to the Commissioner. Any such application shall be submitted at such time, in such form, and containing such information as the Commissioner shall prescribe by regulation and shall be approved only if it—

(A) provides that the activities and services for which assistance is sought will be administered by, or under the supervision of, the applicant;

(B) describes a program which holds promise of making a substantial contribution toward attaining the purposes of this section;

(C) sets forth such policies and procedures as will insure adequate evaluation of the activities intended to be carried out under the application; and

(D) contains such other provisions as the Commissioner determines necessary in order to accomplish the purposes of this subchapter.

(2) An application from a local educational agency under this section may be approved only if the State educational agency of the State in which such local agency is located has been notified of the application and has been given a reasonable opportunity to offer recommendations with respect to the approval therof.

(d) Limitation on fiscal year expenditures.

For the purpose of carrying out this section, the Commissioner is authorized to expend $10,000,000 for each of the fiscal years ending prior to July 1, 1978. (Pub. L. 93–380, title IV, § 403, Aug. 21, 1974, 88 Stat. 546.)

EFFECTIVE DATE

Section effective on and after Aug. 21, 1974, see section 410 of Pub. L. 93–380, set out as a note under section 1801 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1861 of this title.

§ 1863. Gifted and talented children.

(a) Administration and coordination of programs and projects.

The Commissioner shall designate an administrative unit within the Office of Education to administer the programs and projects authorized by this section and to coordinate all programs for gifted and talented children and youth administered by the Office.

(b) Information clearinghouse.

The Commissioner shall establish or designate a clearinghouse to obtain and disseminate to the public information pertaining to the education of gifted and talented children and youth. The Commissioner is authorized to contract with public or private agencies or organizations to establish and operate the clearinghouse.

(c) Grants to State and local educational agencies; applications to Commissioner: time and manner of submission, contents, required provisions; approval by Commissioner; State educational agency approval of local educational agency applications.

(1) The Commissioner shall make grants to State educational agencies and local educational agencies, in accordance with the provisions of this subsection, in order to assist them in the planning, development, operation, and improvement of programs and projects designed to meet the special educational needs of gifted and talented children at the preschool and elementary and secondary school levels.

(2) (A) Any State educational agency or local educational agency desiring to receive a grant under this subsection shall submit an application to the Commissioner at such time, in such manner, and containing such information as the Commissioner determines to be necessary to carry out his functions under this section. Such application shall—

(i) provide satisfactory assurance that funds paid to the applicant will be expended solely to plan, establish, and operate programs and projects which—

(I) are designed to identify and to meet the special educational and related needs of gifted and talented children, and

(II) are of sufficient size, scope, and quality as to hold reasonable promise of making substantial progress toward meeting those needs;

(ii) set forth such policies and procedures as are necessary for acquiring and disseminating information derived from educational research, demonstration and pilot projects, new educational practices and techniques, and the evaluation of the effectiveness of the program or project in achieving its purpose; and

(iii) provide satisfactory assurance that, to the extent consistent with the number of gifted and talented children in the area to be served by the applicant who are enrolled in nonpublic elementary and secondary schools, provision will be made for the participation of such children.

(B) The Commissioner shall not approve an application under this subsection from a local educational agency unless such application has been submitted to the State educational agency of the State in which the applicant is located and such State agency has had an opportunity to make recommendations with respect to approval thereof.

(3) Funds available under an application under this subsection may be used for the acquisition of instructional equipment to the extent such equipment is necessary to enhance the quality or the effectiveness of the program or project for which application is made.

(4) A State educational agency receiving assistance may carry out its functions under an approved application under this subsection directly or through local educational agencies.

(d) Personnel training grants.

The Commissioner is authorized to make grants to State educational agencies to assist them in establishing and maintaining, directly or through grants to institutions of higher education, a program for training personnel engaged or preparing to engage in educating gifted and talented children as supervisors of such personnel.

(e) Leadership personnel training grants; persons included; internships.

The Commissioner is authorized to make grants to institutions of higher education and other appropriate nonprofit institutions or agencies to provide training to leadership personnel for the education of gifted and talented children and youth. Such leadership personnel may include, but are not limited to, teacher trainers, school administrators, supervisors, researchers, and State consultants. Grants under this subsection may be used for internships, with local, State, or Federal agencies or other public or private agencies or institutions.

(f) National Institute of Education; research program; transfer of funds; "research and related activities" defined.

Notwithstanding the second sentence of section 1221e(b)(1) of this title, the National Institute of Education shall, in accordance with the terms and conditions of section 1221e of this title, carry out a program of research and related activities relating to the education of gifted and talented children. The Commissioner is authorized to transfer to the National Institute of Education such sums as may be necessary for the program required by this subsection. As used in the preceding sentence the term "research and related activities" means research, research training, surveys, or demonstrations in the field of education of gifted and talented children and youth, or the dissemination of information derived therefrom, or all of such activities, including (but without limitation) experimental and model schools.

(g) Model projects; contract authorization; scope of activities; limitation on fiscal year expenditures.

In addition to the other authority of the Commissioner under this section, the Commissioner is authorized to make contracts with public and private agencies and organizations for the establishment and operation of model projects for the identification and education of gifted and talented children, including such activities as career education, billingual education, and programs of education for handicapped children and for educationally disadvantaged children. The total of the amounts expended for projects authorized under this subsection shall not exceed 15 per centum of the total of the amounts expended under this section for any fiscal year.

(h) Limitation on fiscal year expenditures.

For the purpose of carrying out the provisions of this section, the Commissioner is authorized to expend not to exceed $12,250,000 for each fiscal year ending prior to July 1, 1978. (Pub. L. 93–380, title IV, § 404, Aug. 21, 1974, 88 Stat. 547.)

EFFECTIVE DATE

Section effective on and after Aug. 21, 1974, see section 410 of Pub. L. 93–380, set out as a note under section 1801 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1861 of this title.

§ 1864. Community schools.

(a) Short title.

This section may be cited as the "Community Schools Act".

(b) Statement of purpose.

In recognition of the fact that the school, as the prime educational institution of the community, is most effective when the school involves the people of that community in a program designed to fulfill their education needs, and that community education promotes a more efficient use of public education facilities through an extension of school buildings and equipment, it is the purpose of this

section to provide educational, recreational, cultural, and other related community services, in accordance with the needs, interests and concerns of the community, through the establishment of the community education program as a center for such activities in cooperation with other community groups.

(c) "Community education program" defined.

For purposes of this section and subparagraph (C) of section 1861(3) of this title, a "community education program is a program in which a public building, including but not limited to a public elementary or secondary school or a community or junior college, is used as a community center operated in conjunction with other groups in the community, community organizations, and local governmental agencies, to provide educational, recreational, cultural, and other related community services for the community that center serves in accordance with the needs, interests, and concerns of that community. Nothing in this section shall be construed to prohibit any applicant under this section from carrying out any activity with funds derived from other sources.

(d) Grants to State and local educational agencies; amount; Federal share; applications to Commissioner: time and manner of submission, form, required provisions, State educational agency approval of local educational agency applications.

(1) In order to carry out the purposes and provisions of this section, the Commissioner is authorized to make grants to State educational agencies and to local educational agencies to pay the Federal share of the cost of planning, establishing, expanding, and operating community education programs.

(2) Fifty percent of the funds made available pursuant to clause (1) of subsection (i) of this section shall be available for grants to State educational agencies. The remainder of such funds shall be available for grants to local educational agencies.

(3) For the purpose of paragraph (1) of this subsection, the Federal share shall be—

(A) 80 per centum of a program to establish a new community education program,

(B) 65 per centum of a program to expand or improve a community education program for the first year in which such program is assisted under this section, and 55 per centum in any fiscal year thereafter, and

(C) 40 per centum of a program to maintain or carry out a community education program.

(4) Any State or local educational agency desiring to receive a grant under this section for any fiscal year shall submit an application to the Commissioner at such time, in such manner, and in such form as the Commissioner shall prescribe by regulation. Each such application shall contain provisions—

(A) assuring that local community colleges, social, recreational, and health groups will be consulted with respect to programs to be offered and facilities to be used for the purpose of this section;

(B) assuring that the applicant will pay from non-Federal sources the remaining costs of carrying out the application; and

(C) containing a description of each community education program for which assistance is sought in sufficient detail to apply the appropriate Federal share specified in clause (3) of this subsection.

The Commissioner shall not approve an application submitted by a local educational agency unless the State educational agency of the State in which that local educational agency is located has been given an opportunity to review, and make comment on, such application.

(e) Training grants.

The Commissioner is authorized to make grants to institutions of higher education to develop and establish, or to expand, programs which will train persons to plan and operate community education programs.

(f) Information clearinghouse; technical assistance.

(1) The Commissioner shall establish or designate a clearinghouse to gather and disseminate information received from community education programs, including but not limited to information regarding new programs, methods to encourage community participation, and ways of coordinating community education programs with other community services. The Commissioner is authorized to contract with public or private agencies or organizations to establish and operate the clearinghouse.

(2) The Commissioner shall make available to each community education program such technical assistance and information as the program may require, and such technical assistance shall be coordinated with the national clearinghouse.

(g) Community Education Advisory Council; establishment; membership: appointment, qualifications, representation of disciplines; policy advisory function; policy guidelines and regulations; evaluation report to Congress.

(1) There is established, subject to part D of the General Education Provisions Act, in the Office of the Commissioner, a Community Education Advisory Council (referred to in this section as the "Advisory Council") to be composed of eleven members. The members of the Advisory Council shall be appointed by the Secretary.

(2) A substantial number of the members of the Advisory Council shall be persons experienced in the operation of community education programs and the training of such persons. The Council shall include representatives from various disciplines involved in providing services in community school programs.

(3) Appointments to the Advisory Council shall be completed within three months after enactment of this section.

(4) The Commissioner shall make available to the Advisory Council such staff, information, and other assistance as it may require to carry out its activities.

(5) The Advisory Council shall advise the Commissioner on policy matters relating to the interests of community schools.

(6) In the fiscal year ending June 30, 1975, the Advisory Council shall be responsible for advising the Commissioner regarding the establishment of policy guidelines and regulations for the operation and administration of this section. In addition, the Council shall create a system for evaluation of the

programs. The Council shall present to Congress a complete and thorough evaluation of the programs and operation of this section for each fiscal year ending after June 30, 1975.

(h) Equitable geographical distribution of community education programs.

In approving applications under this section the Commissioner shall insure that there is an equitable geographical distribution of community education programs throughout the United States in both urban and rural areas.

(i) Limitation on fiscal year expenditures for subsections (d) and (e).

The Commissioner is authorized to expend (1) for the purpose of subsection (d) of this section, $15,000,000 for each fiscal year ending prior to July 1, 1978; and (2) for the purposes of subsection (e) of this section, $2,000,000 for each fiscal year ending prior to July 1, 1978. (Pub. L. 93–380, title IV, § 405, Aug. 21, 1974, 88 Stat. 549.)

REFERENCES IN TEXT

Part D of General Education Provisions Act, referred to in subsec. (g)(1), is classified to section 1233 et seq. of this title.

CODIFICATION

"Appointments to the Advisory Council shall be completed" was inserted in subsec. (g)(3) in view of Conference Report No. 93–1211, as published in Congressional Record, July 23, 1974, p. H6882.

EFFECTIVE DATE

Section effective on and after Aug. 21, 1974, see section 410 of Pub. L. 93–380, set out as a note under section 1801 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1861 of this title.

§ 1865. Career education.

(a) Congressional declaration of policies.

It is the sense of Congress that—

(1) every child should, by the time he has completed secondary school, be prepared for gainful or maximum employment and for full participation in our society according to his or her ability;

(2) it is the obligation of each local educational agency to provide that preparation for all children (including handicapped children and all other children who are educationally disadvantaged) within the school district of such agency; and

(3) each State and local educational agency should carry out a program of career education which provides every child the widest variety of career education options which are designed to prepare each child for maximum employment and participation in our society according to his or her ability.

(b) Congressional declaration of objectives.

It is the purpose of this section to assist in achieving the policies set forth in subsection (a) of this section by—

(1) developing information on the needs for career education for all children;

(2) promoting a national dialogue on career education designed to encourage each State and local educational agency to determine and adopt the approach to career education best suited to the needs of the children served by them;

(3) assessing the status of career education programs and practices, including a reassessment of the stereotyping of career opportunities by race or by sex;

(4) providing for the demonstration of the best of the current career education programs and practices by the development and testing of exemplary programs and practices using various theories, concepts, and approaches with respect to career education;

(5) providing for the training and retraining of persons for conducting career education programs; and

(6) developing State and local plans for implementing career education programs designed to insure that every child has the opportunity to gain the knowledge and skills necessary for gainful or maximum employment and for full participation in our society according to his or her ability.

(c) Office of Career Education; establishment; Director of the Office; supervision of Commissioner.

(1) In order to carry out the policies, purposes, and provisions of this section, there is established in the Office of Education an Office of Career Education (hereafter in this section referred to as the "Office"). The Office shall be headed by a Director.

(2) The Director of the Office shall report directly to the Commissioner.

(d) "Career education" defined.

For the purposes of this section, the term "career education" means an education process designed—

(1) to increase the relationship between schools and society as a whole;

(2) to provide opportunities for counseling, guidance and career development for all children;

(3) to relate the subject matter of the curricula of schools to the needs of persons to function in society;

(4) to extend the concept of the education process beyond the school into the area of employment and the community;

(5) to foster flexibility in attitudes, skills, and knowledge in order to enable persons to cope with accelerating change and obsolescence;

(6) to make education more relevant to employment and functioning in society; and

(7) to eliminate any distinction between education for vocational purposes and general or academic education.

(e) Career education programs, projects, curriculums, and materials; survey and assessment: report to Congress; State and local educational agency reports of employment preparation of students.

The Commissioner shall conduct a survey and assessment of the current status of career education programs, projects, curriculums, and materials in the United States and submit to the Congress, not later than November 1, 1975, a report on such survey and assessment. Such report shall include recommendations of the Advisory Council created under subsection (g) of this section for new legislation designed to accomplish the policies and purposes set forth in subsections (a) and (b) of this section. In exercising his authority under clauses (ii)(III) and (ii)(V) of section 1232c(b)(1)(A) of this title, for any fiscal

year, the Commissioner shall require State educational agencies and local educational agencies to report on their efforts to prepare students for gainful or maximum employment.

(f) Career education model and local State educational program plan grants.

(1) During the period beginning August 21, 1974, and ending June 30, 1978, the Commissioner is authorized to make grants to State and local educational agencies, institutions of higher education, and other nonprofit agencies and organizations to support projects to demonstrate the most effective methods and techniques in career education and to develop exemplary career education models (including models in which handicapped children receive appropriate career education either by participation in regular or modified programs with nonhandicapped children or where necessary in specially designed programs for handicapped children whose handicaps are of such severity that they cannot benefit from regular or modified programs). Grants made under this subsection shall be consistent with the policies set forth in subsection (a) of this section.

(2) During the period beginning one year after August 21, 1974, and ending June 30, 1977, the Commissioner is authorized to make grants to State educational agencies to enable them to develop State plans for the development and implementation of career education programs in the local educational agencies of the States. Such plans shall be designed to carry out the policies and purposes set forth in subsections (a) and (b) of this section.

(g) National Advisory Council for Career Education; establishment; official members: nonvoting ex officio capacity; public members: representation of disciplines and general public, appointment, Chairman, terms of office; staff and funds; duties; survey and assessment: report to Congress.

(1) Subject to part D of the General Education Provisions Act and within ninety days after August 21, 1974, there is established a National Advisory Council for Career Education which shall be composed of—

(A) the Assistant Secretary of Health, Education, and Welfare for Education, the Commissioner of Education, the Director of the Office of Career Education, the Director of the National Institute of Education, the Administrator of the National Center for Education Statistics, the Director of the National Science Foundation, the Chairman of the National Foundation for the Arts, the Chairman of the National Foundation for the Humanities, the Chairman of the National Advisory Council for Vocational Education, all of whom shall serve in a nonvoting ex officio capacity; and

(B) not less than twelve public members broadly representative of the fields of education, the arts, the humanities, the sciences, community services, business and industry, and the general public, a majority of whom shall be engaged in education or education-related professions.

(2) The public members shall be appointed by the Secretary. The Secretary shall select the Chairman from among the public members. The members shall serve for terms of three years with not more than four seats rotating in any one year. The Commissioner shall provide such staff and funds for the Council as deemed necessary and such staff and funds shall be in addition to those provided elsewhere in this subchapter.

(3) The duties of the Council shall be to advise the Commissioner on the implementation of this section and carry out such advisory functions as it deems appropirate, including reviewing the operation of this section and all other programs of the Division of Education pertaining to the development and implementation of career education, evaluating their effectiveness in meeting the needs of career education throughout the United States, and in determining the need for further legislative remedy in order that all citizens may benefit from the purposes of career education as prescribed in this section.

(4) The Council with the assistance of the Commissioner shall conduct a survey and assessment of the current status of career education programs, projects, curricula, and materials in the United States and submit to Congress, not later than November 1, 1975, a report on such survey and assessment. Such report shall include recommendations of the Council for new legislation designed to accomplish the policies and purposes set forth in subsections (a) and (b) of this section.

(h) Limitation on fiscal year expenditures.

For the purpose of carrying out the provisions of this section, the Commissioner is authorized to expend not to exceed $15,000,000 for each fiscal year ending prior to July 1, 1978. (Pub. L. 93–380, title IV, § 406, Aug. 21, 1974, 88 Stat. 551.)

REFERENCES IN TEXT

Part D of General Education Provisions Act, referred to in subsec. (g)(1), is classified to section 1233 et seq. of this title.

EFFECTIVE DATE

Section effective on and after Aug. 21, 1974, see section 410 of Pub. L. 93–380, set out as a note under section 1801 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1861 of this title.

§ 1866. Women's educational equity.

(a) Short title.

This section may be cited as the "Women's Educational Equity Act of 1974."

(b) Congressional findings and declaration of purpose.

(1) The Congress hereby finds and declares that educational programs in the United States (including its possessions), as presently conducted, are frequently inequitable as such programs relate to women and frequently limit the full participation of all individuals in American society.

(2) It is the purpose of this section to provide educational equity for women in the United States.

(c) "Council" defined.

As used in this section, the term "Council" means the Advisory Council on Women's Educational Programs.

(d) Grants and contracts for all level educational activities to carry out objectives; description of activities; applications to Commissioner: time of submission, form, contents, required provisions, approval by Commissioner; nondiscrimination in participation of men in programs and activities.

(1) The Commissioner is authorized to make grants to, and enter into contracts with, public agencies and private nonprofit organizations and with individuals for activities designed to carry out the purposes of this section at all levels of education, including preschool, elementary and secondary education, higher education, and adult education. These activities shall include—

(A) the development, evaluation, and dissemination by the applicant of curricula, textbooks, and other educational materials related to educational equity;

(B) preservice and inservice training for educational personnel including guidance and counseling with special emphasis on programs and activities designed to provide educational equity;

(C) research, development, and educational activities designed to advance educational equity;

(D) guidance and counseling activities, including the development of nondiscriminatory tests, designed to assure educational equity;

(E) educational activities to increase opportunities for adult women, including continuing educational activities and programs for underemployed and unemployed women;

(F) the expansion and improvement of educational programs and activities for women in vocational education, career education, physical education and educational administration.

(2) A grant may be made and a contract may be entered into under this section only upon application to the Commissioner, at such time, in such form, and containing or accompanied by such information as the Commissioner may prescribe. Each such application shall—

(A) provide that the program or activity for which assistance is sought will be administered by or under the supervision of the applicant;

(B) describe a program for carrying out one of the purposes set forth in subsection (a) of this section which holds promise of making a substantial contribution toward attaining such purposes; and

(C) set forth policies and procedures which insure adequate evaluation of the activities intended to be carried out under the application.

(3) The Commissioner shall approve applicants and amendments thereto which meet the requirements of paragraph (2).

(4) Nothing in this section shall be construed as prohibiting men from participating in any programs or activities assisted under this section.

(e) Additional small grants for innovative approaches to objectives.

In addition to the authority of the Commissioner under subsection (d) of this section, the Commissioner shall carry out a program of small grants not to exceed $15,000, each, in order to support innovative approaches to achieving the purpose of this section; and for that purpose the Commissioner is authorized to make grants to public and private nonprofit agencies and to individuals.

(f) Advisory Council on Women's Educational Programs; establishment; membership; Chairman; term of office; duties; national, comprehensive review of sex discrimination in education by Commissioner; Council review of report of Commissioner; General Education Provisions applicable.

(1) There is established in the Office of Education an Advisory Council on Women's Educational Programs. The Council shall be composed of—

(A) seventeen individuals, some of whom shall be students, who shall be appointed by the President, by and with the advice and consent of the Senate, from among individuals broadly representative of the general public who, by virtue of their knowledge or experience, are versed in the role and status of women in American society;

(B) the Chairman of the Civil Rights Commission;

(C) the Director of the Women's Bureau of the Department of Labor; and

(D) the Director of the Women's Action Program of the Department of Health, Education, and welfare.

The Council shall elect its own Chairman.

(2) The term of office of each member of the Council appointed under clause (A) of paragraph (1) shall be three years, except that—

(A) the members first appointed under such clause shall serve as designated by the President, six for a term of one year, five for a term of two years, and six for a term of three years; and

(B) any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term.

(3) The Council shall—

(A) advise the Commissioner with respect to general policy matters relating to the administration of this section;

(B) advise and make recommendations to the Assistant Secretary concerning the improvement of educational equity for women;

(C) make recommendations to the Commissioner with respect to the allocation of any funds pursuant to this section, including criteria developed to insure an appropriate geographical distribution of approved programs and projects throughout the Nation; and

(D) develop criteria for the establishment of program priorities.

(4) From the sums available for the purposes of this section, the Commissioner is authorized and directed to conduct a national, comprehensive review of sex discrimination in education, to be submitted to the Council not later than a year after August 21, 1974. The Council shall review the report of the Commissioner and shall make such recommendations, including recommendations for additional legislation, as it deems advisable.

(5) The provisions of part D of the General Education Provisions Act shall apply with respect to the Council established under this subsection.

(g) Report to President, Congress and Council; distribution of report; program evaluation.

The Commissioner is directed, at the end of each fiscal year, to submit to the President and the Congress and to the Council a report setting forth the programs and activities assisted under this section, and to provide for the distribution of this report to all interested groups and individuals, including the Congress, from funds authorized under this section. After receiving the report from the Commissioner, the Council shall evaluate the programs and projects assisted under this section and include such evaluation in its annual report.

(h) Limitation on fiscal year expenditures.

For the purpose of carrying out this section, the Commissioner is authorized to expend not to exceed $30,000,000 for each fiscal year prior to July 1, 1978. (Pub. L. 93–380, title IV, § 408, Aug. 21, 1974, 88 Stat. 554.)

REFERENCES IN TEXT

Part D of General Education Provisions Act, referred to in subsec. (f)(5), is classified to section 1233 et seq. of this title.

EFFECTIVE DATE

Section effective on and after Aug. 21, 1974, see section 410 of Pub. L. 93–380, set out as a note under section 1801 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1861 of this title.

§ 1867. Elementary and secondary school education in the arts.

The Commissioner shall, during the period beginning after June 30, 1974 and ending on June 30, 1978, through arrangements made with the John F. Kennedy Center for the Performing Arts, carry out a program of grants and contracts to encourage and assist State and local educational agencies to establish and conduct programs in which the arts are an integral part of elementary and secondary school programs. Not less than $750,000 shall be available for the purposes of this section during any fiscal year during the period for which provision is made in the preceding sentence. (Pub. L. 93–380, title IV, § 409, Aug. 21, 1974, 88 Stat. 556.)

EFFECTIVE DATE

Section effective on and after Aug. 21, 1974, see section 410 of Pub. L. 93–380, set out as a note under section 1801 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1861 of this title.

Chapter 41.—NATIONAL READING IMPROVEMENT PROGRAM [NEW]

Sec.
1901. Statement of purpose.

SUBCHAPTER I.—READING IMPROVEMENT PROJECTS

1921. Deficiencies projects.
(a) Agreements for projects using innovative methods, systems, materials, or programs for overcoming reading deficiencies in schools with extensive reading deficiencies and in preschool institutions; agreements and appropriations for leadership and training activities for overcoming reading deficiencies; authorization of Commissioner.
(b) Applications to Commissioner; time; manner; information; reading program.
Sec.
1921. Deficiencies projects—Continued
(c) Additional requirements.
(d) State advisory councils on reading.
(e) State approval of applications.
(f) Commissioner approval of applications meeting subsection (b) to (e) requirements; panel of Office of Education employees for approval of applications.
(g) Equitable distribution of funds.
(h) Availability of funds for State administrative expenses and costs of State advisory council; limitation.

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1941. Statement of purpose.
1942. Applicability and effective date.
1943. Allotments to States.
(a) Basis for determination of amounts; "State" defined.
(b) Reallotment.
1944. Grants for State reading improvement programs.
(a) Agreements with State educational agencies; terms and conditions.
(b) Agencies and institutions eligible for grants; minimum amounts for local educational agencies.
(c) Agreement of Commissioner and State.
(d) Final action of Commissioner; judicial review.
(e) Private elementary and secondary schools; participation of enrolled children in State reading improvement programs.
(f) Performance of functions of State advisory councils on reading.

SUBCHAPTER III.—OTHER READING IMPROVEMENT PROGRAMS

1961. Special emphasis projects.
(a) Contracts for intensive reading instruction in school and vacation reading programs for elementary school children with reading problems; authorization of Commissioner.
(b) Applications to Commissioner; time; manner; information; assurances.
(c) State approval of project.
(d) Districtwide project arrangements; authorization of Commissioner; conditions for priority to applications from local educational agencies.
(e) Use of reading teacher in lieu of reading specialist and regular elementary teacher in lieu of reading teacher.
(f) "Reading specialist" and "reading teacher" defined.
1962. Reading training on public television.
(a) Grants and contracts for courses and material for elementary school teachers with assignments as reading teachers or reading specialists; authorization of Commissioner.
(b) Consultation with specialists.
1963. Reading academies.
(a) Grants and contracts for reading assistance and instruction; authorization of Commissioner.
(b) Assurance of facilities.
1964. State leadership and training activity agreements; scope; authorization of Commissioner.
1965. National impact reading programs; grants or contracts authorization of Commissioner; appropriations.
1966. Inexpensive book distribution program for reading motivation.
(a) Contracts with private nonprofit group or public agency; authorization of Commissioner.
(b) Contract provisions.

Sec.
1966. Inexpensive book distribution program for reading motivation—Continued
(c) Acquisition and distribution of books; favorable discount; determination of payment of Federal share by Commissioner.
(d) Definitions.

SUBCHAPTER IV.—GENERAL PROVISIONS

1981. Evaluation.
(a) Report to Congressional Committees; contents.
(b) Reservation of funds.
1982. Authorization of appropriations.
1983. Acceptance of gifts or donations by Commissioner.

§ 1901. Statement of purpose.

It is the purpose of this chapter—

(1) to provide financial assistance to encourage State and local educational agencies to undertake projects to strengthen reading instruction programs in elementary grades;

(2) to provide financial assistance for the development and enhancement of necessary skills of instructional and other educational staff for reading programs;

(3) to develop a means by which measurable objectives for reading programs can be established and progress toward such objectives assessed;

(4) to develop the capacity of preelementary school children for reading, and to establish and improve preelementary school programs in language arts and reading; and

(5) to provide financial assistance to promote literacy among youth and adults.

(Pub. L. 93–380, title VII, § 701, Aug. 21, 1974, 88 Stat. 588.)

EFFECTIVE DATE

Section effective on and after sixtieth day after Aug. 21, 1974, see section 2(c) of Pub. L. 93–380, set out as a note under section 241b of this title.

SUBCHAPTER I.—READING IMPROVEMENT PROJECTS

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in section 1982 of this title.

§ 1921. Deficiencies projects.

(a) Agreements for projects using innovative methods, systems, materials, or programs for overcoming reading deficiencies in schools with extensive reading deficiencies and in preschool institutions; agreements and appropriations for leadership and training activities for overcoming reading deficiencies; authorization of Commissioner.

(1) The Commissioner is authorized to enter into agreements with either State educational agencies or local educational agencies, or both, for the carrying out by such agencies, in schools having large numbers or a high percentage of children with reading deficiencies, of projects involving the use of innovative methods, systems, materials, or programs which show promise of overcoming such reading deficiencies.

(2) The Commissioner is further authorized to enter into agreements with State educational agencies, local educational agencies, or with nonprofit educational or child care institutions for the carrying out by such agencies and institutions, in areas where such schools are located, of such projects for preelementary school children. Such projects are to be instituted in kindergartens, nursery schools, or other preschool institutions.

(3)(A) Notwithstanding the requirements of paragraphs (b) through (g) of this section, the Commissioner is authorized to enter into agreements pursuant to this paragraph during the fiscal year 1976 and the period beginning July 1, 1976 through September 30, 1976, with State educational agencies for the carrying out by such agencies of leadership and training activities designed to prepare personnel throughout the State to conduct projects which have been demonstrated in that State or in other States to be effective in overcoming reading deficiencies. These activities shall be limited to (i) assessments of need, including personnel needs, relating to reading problems in the State, (ii) inservice training for local reading program administrators and instructional personnel, and (iii) provision of technical assistance and dissemination of information to local educational agencies and other appropriate nonprofit agencies.

(B) Not to exceed $5,300,000 of any sums appropriated pursuant to subsection (a) of section 1982 of this title for the fiscal year 1976, and for the period from July 1, 1976 through September 30, 1976, may be used for carrying out this paragraph.

(b) Applications to Commissioner; time; manner; information; reading program requirements.

No agreement may be entered into under this subchapter, unless upon an application made to the Commissioner at such time, in such manner, and including or accompanied by such information as he may reasonably require. Each such application shall set forth a reading program which provides for the following (except that the requirements contained in paragraphs (4) and (13) shall be met to the extent practicable)—

(1) diagnostic testing designed to identify preelementary and elementary school children with reading deficiencies, including the identification of conditions which, without appropriate other treatment, can be expected to impede or prevent children from learning to read;

(2) planning for and establishing comprehensive reading programs;

(3) reading instruction for elementary school pupils whose reading achievement is less than that which would normally be expected for pupils of comparable ages and in comparable grades of school;

(4) preservice training programs for teaching personnel including teacher-aides and other ancillary educational personnel, and in-service training and development programs, where feasible, designed to enable such personnel to improve their ability to teach students to read;

(5) participation of the school faculty, school board members, administration, parents, and students in reading-related activities which stimulate an interest in reading and are conducive to the improvement of reading skills;

(6) parent participation in development and implementation of the program for which assistance is sought;

(7) local educational agency school board participation in the development of programs;

(8) periodic testing in programs for elementary school children on a sufficiently frequent basis to measure accurately reading achievement, and for programs for preelementary school children a test of reading proficiency at the conclusion, minimally, of the first-grade program into which the nursery and kindergarten programs are integrated;

(9) publication of test results on reading achievement by grade level, and where appropriate, by school, without identification of achievement of individual children;

(10) availability of test results on reading achievement on an individual basis to parents or guardians of any child being so tested;

(11) participation on an equitable basis by children enrolled in nonprofit private elementary schools in the area to be served (after consultation with the appropriate private school officials) to an extent consistent with the number of such children whose educational needs are of the kind the program is intended to meet;

(12) the use of bilingual education methods and techniques to the extent consistent with the number of elementary school-age children in the area served by a reading program who are of limited English-speaking ability;

(13) appropriate involvement of leaders of the cultural and educational resources of the area to be served, including institutions of higher education, nonprofit private schools, public and private nonprofit agencies such as libraries, museums, educational radio and television, and other cultural and education resources of the community; and

(14) assessment, evaluation, and collection of information on individual children by teachers during each year of the preelementary program, to be made available for teachers in the subsequent year, in order that continuity for the individual child not be lost.

(c) Additional requirements.

Each such applicant, in addition to meeting the requirements of subsection (b) of this section, except for paragraphs (4) and (13) thereof, shall provide assurances that—

(1) appropriate measures have been taken by the agency to analyze the reasons why elementary school children are not reading at the appropriate grade level;

(2) the agency will develop a plan setting forth specific objectives which shall include the goals of having the children in project schools reading at the appropriate grade level at the end of grade three; and

(3) whenever appropriate, sufficient measures will be taken to coordinate each preelementary reading program with the reading program of the educational agencies or institutions at which such preelementary school children will be next in attendance.

(d) State advisory councils on reading.

No grant may be made under this subchapter unless the application for such grant provides assurances that the provisions of this subsection are met. Each State educational agency shall—

(1) establish an advisory council on reading appointed by such agency which shall be broadly representative of the education resources of the State and of the general public, including persons representative of—

(A) public and private nonprofit elementary and secondary schools,

(B) institutions of higher education,

(C) parents of elementary and secondary school children, and

(D) areas of professional competence relating to instruction in reading, and

(2) authorize the advisory council established under clause (1) to receive and designate priorities among applications for grants under this section in that State,

if—

(i) that State educational agency desires to receive a grant under this subchapter, or

(ii) any local educational agency of that State desires to receive a grant under this subchapter, and notifies the State educational agency concerned, or

(iii) in the case of a preelementary school program any nonprofit educational agency or child care institution in that State desires to receive a grant under this subchapter, and notifies the State educational agency concerned.

(e) State approval of applications.

No agreement may be entered into under this subchapter unless the application submitted to the Commissioner has first been approved by the State educational agency.

(f) Commissioner approval of applications meeting subsection (b) to (e) requirements; panel of Office of Education employees for approval of applications.

The Commissioner may approve any application submitted under this subchapter which meets the requirements of subsections (b), (c), (d), and (e) of this section. In approving such applications, the Commissioner may not use any panel (other than employees of the Office of Education) for the purpose of such approval.

(g) Equitable distribution of funds.

In approving applications under this subchapter the Commissioner shall, to the maximum extent feasible, assure an equitable distribution of funds throughout the United States and among urban and rural areas. Not more than 12½ percent of the funds expended under this subchapter in any fiscal year may be expended in any State in that year.

(h) Availability of funds for State administrative expenses and costs of State advisory council; limitation.

From the sums appropriated for the purposes of this subchapter for any fiscal year, the Commissioner may pay to each State educational agency, in addition to any amounts paid to such agency pursuant to subsection (a) of this section, the amount necessary to meet the costs of carrying out its responsibilities under this section, including the costs of the advisory council required to be established pursuant

to subsection (d) of this section. However, such amount may not exceed 1 per centum of the total amount of grants under this subchapter made within the State for that fiscal year. (Pub. L. 93–380, title VII, § 705, Aug. 21, 1974, 88 Stat. 589, amended Pub. L. 94–194, §§ 1(a), 2, 3, Dec. 31, 1975, 89 Stat. 1103, 1104.)

Repeal of Subsection (a)(3)

Subsec. (a)(3) of this section, as added by Pub. L. 94–194, § 1(a), Dec. 31, 1975, 89 Stat. 1103, is repealed by Pub. L. 94–194, § 1(b)(3), effective Sept. 30, 1976.

AMENDMENTS

1975—Subsec. (a)(3). Pub. L. 94–194, § 1(a), added subsec. (a)(3).

Subsec. (b). Pub. L. 94–194, § 2(a), added provisions relating to limits of compliance with requirements contained in pars. (4) and (13).

Subsec. (c). Pub. L. 94–194, § 2(b), added "except for paragraphs (4) and (13) thereof," following "of this section".

Subsec. (c)(3). Pub. L. 94–194, § 2(c), added "at" following "institutions".

Subsec. (e). Pub. L. 94–194, § 2(d), restructured subsec. (e) by eliminating cl. (1) designation and cl. (2) relating to the requirement for monitoring by the State educational agencies of local grants.

Subsec. (h). Pub. L. 94–194, § 3, added subsec. (h).

EFFECTIVE DATE

Section effective on and after sixtieth day after Aug. 21, 1974, see section 2(c) of Pub. L. 93–380, set out as a note under section 241b of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1944, 1961 of this title.

SUBCHAPTER II.—STATE READING IMPROVEMENT PROGRAMS

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in section 1982 of this title.

§ 1941. Statement of purpose.

It is the purpose of this subchapter to provide financial assistance to the States to enable them—

(1) to provide financial assistance for projects designed to facilitate reaching the objectives of this chapter;

(2) to develop comprehensive programs to improve reading proficiency and instruction in reading in the elementary schools of the State;

(3) to provide State leadership in the planning, improving, execution, and evaluation of reading programs in elementary schools; and

(4) to arrange for and assist in the training of special reading personnel and specialists needed in programs assisted under this chapter.

(Pub. L. 93–380, title VII, § 711, Aug. 21, 1974, 88 Stat. 591.)

§ 1942. Applicability and effective date.

(a) The provisions of this subchapter shall become effective only in any fiscal year in which appropriations made pursuant to section 1982(a) of this title exceed $30,000,000 and then only with respect to the amount of such excess.

(b) The provisions of this subchapter shall be effective on and after the beginning of fiscal year 1976. (Pub. L. 93–380, title VII, § 712, Aug. 21, 1974, 88 Stat. 591.)

§ 1943. Allotments to States.

(a) Basis for determination of amounts; "State" defined.

(1) From the sums appropriated pursuant to section 1982(a) of this title for each fiscal year which are available for carrying out this subchapter, the Commissioner shall reserve such amount, but not in excess of 1 per centum of such sums, as he may determine, and shall apportion such amount to Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands according to their respective needs for assistance under this chapter. Of the remainder of such sums, he shall allot an amount to each State which bears the same ratio to the amount available for allotment as the number of school age children (aged 5 to 12, inclusive) in each such State bears to the total number of such children in all the States, as determined by the Commissioner on the basis of the most recent satisfactory data available to him. The allotment of a State which would be less than $50,000 under the preceding sentence shall be increased to $50,000, and the total of the increases thereby required shall be derived by proportionately reducing the allotments to the remaining States under the preceding sentence, but with such adjustments as may be necessary to prevent the allotments to any such remaining States from being reduced to less than $50,000.

(2) For the purpose of this section the term "State" includes the District of Columbia and the Commonwealth of Puerto Rico.

(b) Reallotment.

The amount allotted to any State under subsection (a) of this section for any fiscal year which the Commissioner determines will not be required for that year shall be available for reallotment from time to time, on such dates during that year as the Commissioner may fix, to other States in proportion to the amounts originally allotted among those States under subsection (a) of this section for that year, but with the proportionate amount for any of the other States being reduced to the extent it exceeds the sum the Commissioner estimates the local educational agencies of such State need and will be able to use for that year; and the total of these reductions shall be similarly reallotted among the States whose proportionate amounts were not so reduced. Any amount reallotted to a State under this subsection from funds appropriated pursuant to section 1982 of this title for any fiscal year shall be deemed part of the amount allotted to it under subsection (a) of this section for that year. (Pub. L. 93–380, title VII, § 713, Aug. 21, 1974, 88 Stat. 591.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1944 of this title.

§ 1944. Grants for State reading improvement programs.

(a) Agreements with State educational agencies; terms and conditions.

Any State which desires to receive grants under this subchapter shall, through its State educational

agency, enter into an agreement with the Commissioner, in such detail as the Commissioner deems necessary, which—

(1) designates the State educational agency as the sole agency for administration of the agreement;

(2) provides for the establishment of a State advisory council on reading, appointed by the State educational agency, which shall be broadly representative of the educational resources of the State and of the general public, including persons representative of—

(A) public and private nonprofit elementary school children, and

(B) institutions of higher education,

(C) parents of elementary school children, and

(D) areas of professional competence relating to instruction in reading,

to advise the State educational agency on the formulation of a standard of excellence for reading programs in the elementary schools and on the preparation of, and policy matters arising in the administration of, the agreement (including the criteria for approval of applications for assistance under such agreement) and in the evaluation of results of the program carried out pursuant to the agreement;

(3) describes the reading programs in elementary schools for which assistance is sought under this subchapter and procedures for giving priority to reading programs which are already receiving Federal financial assistance and show reasonable promise of achieving success;

(4) sets forth procedures for the submission of applications by local educational agencies within that State, including procedures for an adequate description of the reading programs for which assistance is sought under this subchapter;

(5) sets forth criteria for achieving an equitable distribution of that part of the assistance under this subchapter which is made available to local educational agencies pursuant to the second sentence of subsection (b) of this section, which criteria shall—

(A) take into account the size of the population to be served, beginning with preschool, the relative needs of pupils in different population groups within the State for the program authorized by this chapter, and the financial ability of the local educational agency serving such pupils,

(B) assure that such distribution shall include grants to local educational agencies having high concentrations of children with low reading proficiency, and

(C) assure an equitable distribution of funds among urban and rural areas;

(6) sets forth criteria for the selection or designation and training of personnel (such as reading specialists and administrators of reading programs) engaged in programs assisted under this subchapter, including training for private elementary school personnel, which shall include qualifications acceptable for such personnel;

(7) provides for the coordination and evaluation of programs assisted under this subchapter;

(8) provides for technical assistance and support services for local educational agencies participating in the program;

(9) makes provision for the dissemination to the educational community and the general public of information about the objectives of the program and results achieved in the course of its implementation;

(10) provides for making an annual report and such other reports, in such form and containing such information, as the Commissioner may reasonably require to evaluate the effectiveness of the program and to carry out his other functions under this chapter;

(11) provides that not more than 5 per centum of the amount allotted to the State under section 1943 of this title for any fiscal year may be retained by the State educational agency for purposes of administering the agreement; and

(12) provides that programs assisted under this subchapter shall be of sufficient size, scope, and quality so as to give reasonable promise of substantial progress toward achieving the purposes of this chapter.

(b) Agencies and institutions eligible for grants; minimum amounts for local educational agencies.

Grants for projects to carry out the purposes of this subchapter may be made to local educational agencies (subject to the provision of subsection (e) of this section relating to the participation of private elementary and secondary school pupils), institutions of higher education, and other public and nonprofit private agencies and institutions. Not less than 60 per centum of the amount allotted to a State under section 1943 of this title for any fiscal year shall be made available by the State for grants to local educational agencies within that State.

(c) Agreement of Commissioner and State.

The Commissioner shall enter into an agreement which complies with the provisions of subsection (a) of this section with any State which desires to enter into such an agreement.

(d) Final action of Commissioner; judicial review.

The Commissioner's final action with respect to entering into an agreement under subsection (a) of this section shall be subject to the provisions of section 827 of this title, relating to judicial review.

(e) Private elementary and secondary schools; participation of enrolled children in State reading improvement programs.

The provisions of section 241e–1 of this title relating to the participation of children enrolled in private elementary and secondary schools shall apply to programs assisted under this subchapter.

(f) Performance of functions of State advisory councils on reading.

The functions of the State advisory council on reading, required to be established by subsection (a)(2) of this section, may be carried out by the State advisory council created pursuant to section 1921(d)(1) of this title. (Pub. L. 93–380, title VII, § 714, Aug.

21, 1974, 88 Stat. 592, amended Pub. L. 94–194, § 4, Dec. 31, 1975, 89 Stat. 1104.)

AMENDMENTS

1975—Subsec. (f). Pub. L. 94–194 added subsec. (f).

SUBCHAPTER III.—OTHER READING IMPROVEMENT PROGRAMS

§ 1961. Special emphasis projects.

(a) Contracts for intensive reading instruction in school and vacation reading programs for elementary school children with reading problems; authorization of Commissioner.

The Commissioner is authorized to contract with local educational agencies for special emphasis projects to determine the effectiveness of intensive instruction by reading specialists and reading teachers. Each such project should provide for—

(1) the teaching of reading by a reading specialist for all children in the first and second grades of an elementary school and the teaching of reading by a reading specialist for elementary school children in grades three through six who have reading problems; and

(2) an intensive vacation reading program for elementary school children who are found to be reading below the appropriate grade level or who are experiencing problems in learning to read.

(b) Applications to Commissioner; time; manner; information; assurances.

No contract may be entered into under this section unless upon an application made to the Commissioner at such time, in such manner, and including or accompanied by such information as he may reasonably require. Each such application shall provide assurances that—

(1) the provisions of section 1921 (b) and (c) of this title are met; and

(2) the State educational agency has certified that individuals employed as reading specialists and reading teachers meet the requirements of subsections (e) and (f) of this section.

(c) State approval of project.

No contract may be entered into under this section unless the project has been approved by the State educational agency.

(d) Districtwide project arrangements; authorization of Commissioner; conditions for priority to applications from local educational agencies.

The Commissioner is authorized to enter into at least one arrangement with a local educational agency for a districtwide project conducted in all schools of such agencies. In selecting the districtwide project, the Commissioner shall give priority to an application from a local educational agency if the Commissioner finds that—

(1) the local educational agency will give credit for any course to be developed for reading teachers or reading specialists under section 1962 of this title and will encourage participation by the teachers of such agency in the training;

(2) the local public educational television station will present or distribute, in the event supplementary noncommercial telecommunication is utilized, any course to be developed under section 1962 of this title at an hour convenient for the viewing by elementary school teachers, and, if possible, at a time convenient for such teachers to take the course, as a group, at the elementary school where they teach; and

(3) the local educational agency will make arrangements with the appropriate officials of institutions of higher education to obtain academic credit for the completion of such a course.

(e) Use of reading teacher in lieu of reading specialist and regular elementary teacher in lieu of reading teacher.

In any project assisted under this section a reading teacher may be used in lieu of a reading specialist, if the Commissioner finds that the local educational agency participating in a reading emphasis project is unable to secure individuals who meet the requirements of a reading specialist and if such reading teacher is enrolled or will enroll in a program to become a reading specialist. A regular elementary teacher may be used in lieu of a reading teacher if the Commissioner finds that the local educational agency participating in a reading emphasis project is unable to secure individuals who meet the requirements of the reading teacher, and if such regular elementary teacher is enrolled or will enroll in a program to become a reading teacher.

(f) "Reading specialist" and "reading teacher" defined.

For the purpose of this section and section 1962 of this title the term—

(1) "reading specialist" means an individual who has a master's degree, with a major or specialty in reading, from an accredited institution of higher education and has successfully completed three years of teaching experience, which includes reading instruction, and

(2) "reading teacher" means an individual, with a bachelor's degree, who has successfully completed a minimum of twelve credit hours, or its equivalent, in courses of the teaching of reading at an accredited institution of higher education, and has successfully completed two years of teaching experience, which includes reading instruction.

(Pub. L. 93–380, title VII, § 721, Aug. 21, 1974, 88 Stat. 594, amended Pub. L. 94–194, § 10, Dec. 31, 1975, 89 Stat. 1107.)

AMENDMENTS

1975—Subsec. (b)(1). Pub. L. 94–194 added "and (c)" after "section 1921(b)".

EFFECTIVE DATE

Section effective on and after sixtieth day after Aug. 21, 1974, see section 2(c) of Pub. L. 93–380, set out as a note under section 241b of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1982 of this title.

§ 1962. Reading training on public television.

(a) Grants and contracts for courses and material for elementary school teachers with assignments as reading teachers or reading specialists; authorization of Commissioner.

The Commissioner is authorized, through grants or contracts, to enter into contractual arrangements with institutions of higher education, public or private agencies or organizations, and individuals for—

(1) the preparation, production, evaluation, and distribution for use on public educational televi-

sion stations of courses for elementary school teachers who are or intend to become reading teachers or reading specialists; and

(2) the preparation and distribution of informational and study course material to be used in conjunction with any such course.

(b) Consultation with specialists.

In carrying out the provisions of this section the Commissioner shall consult with recognized authorities in the field of reading, specialists in the use of the communications media for educational purposes, and with the State and local educational agencies participating in projects under this chapter. (Pub. L. 93–380, title VII, § 722, Aug. 21, 1974, 88 Stat. 595.)

EFFECTIVE DATE

Section effective on and after sixtieth day after Aug. 21, 1974, see section 2(c) of Pub. L. 93–380, set out as a note under section 241b of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1961, 1982 of this title.

§ 1963. Reading academies.

(a) Grants and contracts for reading assistance and instruction; authorization of Commissioner.

The Commissioner is authorized to make grants to and to enter into cointracts with State and local educational agencies, institutions of higher education, community organizations and other nonprofit organizations, having the capacity to furnish reading assistance and instruction to in-school as well as out-of-school youths and adults who do not otherwise receive such assistance and instruction.

(b) Assurance of facilities.

Grants made and contracts entered into under this section shall contain provisions to assure that such reading assistance and instruction will be provided in appropriate facilities to be known as "reading academies". (Pub. L. 93–380, title VII, § 723, Aug. 21, 1974, 88 Stat. 595, amended Pub. L. 94–194, § 5, Dec. 31, 1975, 89 Stat. 1104.)

AMENDMENTS

1975—Subsec. (a). Pub. L. 94–194 added "in-school as well as out-of-school" following "instruction to".

EFFECTIVE DATE

Section effective on and after sixtieth day after Aug. 21, 1974, see section 2(c) of Pub. L. 93–380, set out as a note under section 241b of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1982 of this title.

§ 1964. State leadership and training activity agreements; scope; authorization of Commissioner.

The Commissioner is authorized to enter into agreements pursuant to this section with State educational agencies for the carrying out by such agencies of leadership and training activities designed to prepare personnel throughout the State to conduct projects which have been demonstrated in that State or other States to be effective in overcoming reading deficiencies. The activities authorized by this section shall be limited to—

(1) assessments of need, including personnel needs, relating to reading problems in the State,

(2) inservice training for local reading program administrators and instructional personnel, and

(3) provision of technical assistance and dissemination of information to local educational agencies and other appropriate nonprofit agencies.

(Pub. L. 93–380, title VII, § 724, as added Pub. L. 94–194, § 1(b)(1), Dec. 31, 1975, 89 Stat. 1103.)

EFFECTIVE DATE

Section 1(b)(2) of Pub. L. 94–194 provided that: "The amendment made by paragraph (1) of this subsection [enacting this section] shall take effect on October 1, 1976."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1982 of this title.

§ 1965. National impact reading programs; grants or contracts; authorization of Commissioner; appropriations.

(a) The Commissioner is authorized to carry out, either directly or through grants or contracts, (1) innovation and development projects and activities of national significance which show promise of having a substantial impact in overcoming reading deficiencies in children, youths, and adults through incorporation into ongoing State and local educational systems throughout the Nation, and (2) dissemination of information related to such programs.

(b) Not to exceed $600,000 of any sums appropriated pursuant to subsection (a) of section 1982 of this title for the fiscal year 1976, and for the period from July 1, 1976 through September 30, 1976, may be used for carrying out this section. (Pub. L. 93–380, title VII, § 725, as added Pub. L. 94–194, § 6(a), Dec. 31, 1975, 89 Stat. 1104.)

Repeal of Subsection (b)

Section as added by Pub. L. 94–194, § 6(a), Dec. 31, 1975, 89 Stat. 1104, was additionally amended by Pub. L. 94–194, § 6(b), to provide that subsec. (a) designation and subsec. (b) are repealed effective September 30, 1976.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1982 of this title.

§ 1966. Inexpensive book distribution program for reading motivation.

(a) Contracts with private nonprofit group or public agency; authorization of Commissioner.

The Commissioner is authorized (1) to enter into a contract with a private nonprofit group or public agency (hereinafter in this section referred to as the "contractor"), which has as its primary purpose the motivation of children to learn to read, to support and promote the establishment of reading motivational programs which include the distribution of inexpensive books to students and (2) to pay the Federal share of the cost of such programs.

(b) Contract provisions.

This contract shall provide that—

(1) the contractor will enter into subcontracts with local private nonprofit groups or organizations or with public agencies (hereinafter referred to as "subcontractors") under which the subcontractors will agree to establish, operate, and provide the non-Federal share of the cost of reading motivational programs which include the distribution of books by gift, loan, or sale at a nominal price to children in preelementary, elementary, or secondary schools;

(2) funds made available by the Commissioner to a contractor pursuant to any contract entered into under this section will be used to pay the Federal share of the cost of establishing and operating reading motivational programs as provided in paragraph (1);

(3) the contractor will meet such other conditions and standards as the Commissioner determines to be necessary to assure the effectiveness of the programs authorized by this section and will provide technical assistance in furtherance of the purposes of this section.

(c) Acquisition and distribution of books; favorable discount; determination of payment of Federal share by Commissioner.

The Commissioner shall make no payment of the Federal share of the cost of acquiring and distributing books pursuant to a contract authorized by this section unless he determines that the contractor or the subcontractor, as the case may be, has made arrangements with book publishers or distributors to obtain books at discounts at least as favorable as discounts that are customarily given by such publisher or distributor for book purchases made under similar circumstances in the absence of Federal assistance.

(d) Definitions.

For purposes of this section—

(1) the term "nonprofit", when used in connection with any organization, means an organization no part of the net earnings of which inures, or may lawfully inure, to the benefit of any private shareholder or individual;

(2) the term "Federal share" means, with respect to the cost of books purchased by a local private nonprofit group, organization, or public agency for a program in a locality for distributing such books to schoolchildren in that locality, 50 per centum of the cost of that agency or group or organization for such books for such program;

(3) the term "preelementary school" means a day or residential school which provides preelementary education, as determined under State law, except that such term does not include education for children who have not attained three years of age;

(4) the term "elementary school" has the same meaning as provided in section 881(c) of this title; and

(5) the term "secondary school" has the same meaning as provided in section 881(h) of this title.

(Pub. L. 93–380, title VII, § 726, as added Pub. L. 94–194, § 9(a), Dec. 31, 1975, 89 Stat. 1105.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1982 of this title.

SUBCHAPTER IV.—GENERAL PROVISIONS

§ 1981. Evaluation.

(a) Report to Congressional Committees; contents.

The Commissioner shall submit an evaluation report to the Committee on Labor and Public Welfare of the Senate and the Committee on Education and Labor of the House of Representatives not later than February 1, in each fiscal year ending prior to fiscal year 1979. Each such report shall—

(1) contain a statement of specific detailed objectives for the program assisted under the provisions of this chapter;

(2) include a statement of the effectiveness of the program in meeting the stated objectives, measured through the end of the preceding fiscal year;

(3) make recommendations with respect to any changes or additional legislation deemed necessary or desirable in carrying out the program;

(4) contain a list identifying the principal analyses and studies supporting the major conclusions and recommendations contained in the report; and

(5) contain an annual evaluation plan for the program through the ensuing fiscal year for which the budget was transmitted to Congress by the President, in accordance with section 11 of Title 31.

(b) Reservation of funds.

From the sums appropriated pursuant to section 1982 of this title for any fiscal year, the Commissioner may reserve such amount, not in excess of 1 per centum of such sums, as he deems necessary for evaluation, by the Commissioner or by public or private nonprofit agencies, of programs assisted under this chapter. (Pub. L. 93–380, title VII, § 731, Aug. 21, 1974, 88 Stat. 596, amended Pub. L. 94–194, § 7, Dec. 31, 1975, 89 Stat. 1105.)

AMENDMENTS

1975—Subsec. (a). Pub. L. 94–194 substituted "February 1" for "March 31".

EFFECTIVE DATE

Section effective on and after sixtieth day after Aug. 21, 1974, see section 2(c) of Pub. L. 93–380, set out as a note under section 241b of this title.

§ 1982. Authorization of appropriations.

(a) There are authorized to be appropriated to carry out the provisions of subchapter I and II of this chapter $30,000,000 for the fiscal year ending June 30, 1975, $82,000,000 for the fiscal year ending June 30, 1976, $88,000,000 for the fiscal year ending June 30, 1977, and $93,000,000 for the fiscal year ending June 30, 1978.

(b) There are authorized to be appropriated to carry out the provisions of section 1961 of this title, relating to special emphasis projects, $15,000,000 for the fiscal year ending June 30, 1975, $20,000,000 for the fiscal year ending June 30, 1976, and $25,000,000 for each of the fiscal years ending June 30, 1977 and 1978.

(c) There are authorized to be appropriated for the purpose of carrying out section 1962 of this title, relating to reading training on public television, $3,000,000 for the fiscal year ending June 30, 1975. Sums appropriated pursuant to this subsection shall remain available for obligation and expenditure through the succeeding fiscal year.

(d) There are authorized to be appropriated to carry out the provisions of section 1963 of this title, relating to reading academies, $5,000,000 for the fiscal year ending June 30, 1975, $7,500,000 for the fiscal year ending June 30, 1976, and $10,000,000 for each of the fiscal years ending June 30, 1977 and 1978.

(e) There are authorized to be appropriated to carry out the provisions of section 1964 of this title, relating to State leadership and training projects, $6,400,000 each for the fiscal year ending September 30, 1977, and for the succeeding fiscal year.

(f) There are authorized to be appropriated to carry out the provisions of section 1965 of this title, relating to national impact reading programs, $800,000 each for the fiscal year ending September 30, 1977 and for the succeeding fiscal year.

(g) There are authorized to be appropriated to carry out the provisions of section 1966 of this title, relating to inexpensive book distribution programs for reading motivation, $4,000,000 for the fiscal year ending June 30, 1976, and $9,000,000 for each of the following two fiscal years. Under such conditions as the Commissioner determines to be appropriate, not to exceed 10 per centum of the amounts appropriated for each fiscal year shall be available for a contract from the Commissioner to the contractor designated under section 1966 of this title for technical assistance under subsection (b)(3) of section 1966 of this title to carry out the provisions of such section. (Pub. L. 93–380, title VII, § 732, Aug. 21, 1974, 88 Stat. 596, amended Pub. L. 94–194, §§ 1(c), 6(c), 9(b), Dec. 31, 1975, 89 Stat. 1104–1106.)

AMENDMENTS

1975—Subsec. (e). Pub. L. 94–194, § 1(c), added subsec. (e).
Subsec. (f). Pub. L. 94–194, § 6(c), added subsec. (f).
Subsec. (g). Pub. L. 94–194, § 9(b), added subsec. (g).

EFFECTIVE DATE

Section effective on and after sixtieth day after Aug. 21, 1974, see section 2(c) of Pub. L. 93–380, set out as a note under section 241b of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1921, 1942, 1943, 1965, 1981 of this title.

§ 1983. Acceptance of gifts or donations by Commissioner.

Notwithstanding the provisions of section 1221e–3(a)(3) of this title, the Commissioner may accept on behalf of the United States, gifts or donations made with or without conditions of services, money or property (real, personal, or mixed; tangible or intangible) made for any activities authorized to be carried out by such agency under the authority of this subchapter. (Pub. L. 93–380, title VII, § 733, as added Pub. L. 94–194, § 8, Dec. 31, 1975, 89 Stat. 1105.)

Chapter 42.—HARRY S TRUMAN MEMORIAL SCHOLARSHIPS [NEW]

Sec.
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§ 2001. Congressional statement of findings.

The Congress finds that—

because a high regard for the public trust and a lively exercise of political talents were outstanding characteristics of the thirty-third President of the United States;

because a special interest of the man from Independence in American history and a broad knowledge and understanding of the American political and economic system gained by study and experience in county and National Government culminated in the leadership of America remembered for the quality of his character, courage, and commonsense;

because of the desirability of encouraging young people to recognize and provide service in the highest and best traditions of the American political system at all levels of government, it is especially appropriate to honor former President Harry S Truman through the creation of a perpetual education scholarship program to develop increased opportunities for young Americans to prepare and pursue careers in public service.

(Pub. L. 93–642, § 2, Jan. 4, 1975, 88 Stat. 2276.)

SHORT TITLE

Section 1 of Pub. L. 93–642 provided: "That this Act [enacting this chapter] may be cited as the 'Harry S Truman Memorial Scholarship Act'."

§ 2002. Definitions.

As used in this chapter, the term—

(1) "Board" means the Board of Trustees of the Harry S Truman Scholarship Foundation;

(2) "Foundation" means the Harry S Truman Scholarship Foundation;

(3) "fund" means the Harry S Truman Memorial Scholarship Fund;

(4) "institution of higher education" means any such institution as defined by section 1141(a) of this title;

(5) "State" means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, and, considered as a single entity, Guam, the Virgin Islands, American Samoa, and the Trust Territory of the Pacific Islands; and

(6) "Secretary" means the Secretary of the Treasury.

(Pub. L. 93–642, § 3, Jan. 4, 1975, 88 Stat. 2276.)

§ 2003. Other federal memorials prohibited.

The Harry S Truman Scholarship Program as authorized by this chapter shall be the sole Federal memorial to President Harry S Truman. (Pub. L. 93–642, § 4, Jan. 4, 1975, 88 Stat. 2277.)

§ 2004. Harry S Truman Scholarship Foundation.

(a) Establishment.

There is established, as an independent establishment of the executive branch of the United States Government, the Harry S Truman Scholarship Foundation.

(b) Board of Trustees; membership.

(1) The Foundation shall be subject to the supervision and direction of a Board of Trustees. The Board shall be composed of thirteen members, as follows:

(A) two Members of the Senate, one from each political party, to be appointed by the President of the Senate;

(B) two Members of the House of Representatives, one from each political party, to be appointed by the Speaker;

(C) eight members, not more than four of whom shall be of the same political party, to be appointed by the President with the advice and consent of the Senate, of whom one shall be a chief executive officer of a State, one a chief executive officer of a city or county, one a member of a Federal court, one a member of a State court, one a person active in postsecondary education, and three representatives of the general public; and

(D) the Commissioner of Education or his designate, who shall serve ex officio as a member of the Board, but shall not be eligible to serve as Chairman.

(c) Term of office.

The term of office of each member of the Board shall be six years; except that (1) the members first taking office shall serve as designated by the President, four for terms of two years, five for terms of four years, and four for terms of six years, and (2) any member appointed to fill a vacancy shall serve for the remainder of the term for which his predecessor was appointed, and shall be appointed in the same manner as the original appointment for that vacancy was made.

(d) Compensation.

Members of the Board shall serve without pay, but shall be entitled to reimbursement for travel, subsistence, and other necessary expenses incurred in the performance of their duties. (Pub. L. 93–642, § 5, Jan. 4, 1975, 88 Stat. 2277.)

§ 2005. Truman scholars.

(a) Basis for award.

The Foundation is authorized to award scholarships to persons who demonstrate outstanding potential for and who plan to pursue a career in public service. Award recipients shall be known as Truman scholars.

(b) Maximum period of award.

Scholarships under this chapter shall be awarded for such periods as the Foundation may prescribe but not to exceed four academic years.

(c) Recipient's choice of institution.

A student awarded a scholarship under this chapter may attend any institution of higher education offering courses of study, training, or other educational activities designed to prepare persons for a career in public service as determined pursuant to criteria established by the Foundation.

(d) Encouragement of recipient to pursue public service career.

Each student awarded a scholarship under this chapter must have indicated a serious intent to enter the public service upon the completion of his or her educational program. Each institution of higher education at which such a student is in attendance will make reasonable continuing efforts to encourage such a student to enter the public service upon completing his or her educational program. (Pub. L. 93–642, § 6, Jan. 4, 1975, 88 Stat. 2278.)

§ 2006. Selection of scholars.

(a) The Foundation is authorized, either directly or by contract, to provide for the conduct of a nationwide competition for the purpose of selecting Truman scholars.

(b) The Foundation shall adopt selection procedures which shall assure that at least one Truman scholar shall be selected each year from each State in which there is at least one resident applicant who meets the minimum criteria established by the Foundation. (Pub. L. 93–642, § 7, Jan. 4, 1975, 88 Stat. 2278.)

§ 2007. Stipends.

Each student awarded a scholarship under this chapter shall receive a stipend which shall not exceed the cost to such student for tuition, fees, books, room and board, or $5,000 whichever is less for each academic year of study. (Pub. L. 93–642, § 8, Jan. 4, 1975, 88 Stat. 2278.)

§ 2008. Scholarship conditions.

(a) A student awarded a scholarship under the provisions of this chapter shall continue to receive the payments provided in this chapter only during such periods as the Foundation finds that he or she is maintaining satisfactory proficiency and devoting full time to study or research designed to prepare him or her for a career in public service and is not otherwise engaging in gainful employment other than employment approved by the Foundation pursuant to regulation.

(b) The Foundation is authorized to require reports containing such information in such form and to be filed at such times as the Foundation determines to be necessary from any student awarded a scholarship under the provisions of this chapter. Such reports shall be accompanied by a certificate from an appropriate official at the institution of higher education, approved by the Foundation, stating that such student is making satisfactory progress in, and is devoting essentially full time to, study or research, except as otherwise provided in subsection (a) of this section. (Pub. L. 93–642, § 9, Jan. 4, 1975, 88 Stat. 2278.)

§ 2009. Harry S Truman Memorial Scholarship Trust Fund.

(a) Establishment.

There is established in the Treasury of the United States a trust fund to be known as the Harry S Truman Memorial Scholarship Trust Fund. The

fund shall consist of amounts appropriated to it by section 2013 of this title.

(b) Investment in interest bearing obligations.

It shall be the duty of the Secretary to invest in full the amounts appropriated to the fund. Such investments may be made only in interest-bearing obligations of the United States or in obligations guaranteed as to both principal and interest by the United States. For such purpose, such obligations may be acquired (1) on original issue at the issue price, or (2) by purchase of outstanding obligations at the market place. The purposes for which obligations of the United States may be issued under the Second Liberty Bond Act, as amended, are hereby extended to authorize the issuance at par of special obligations exclusively to the fund. Such special obligations shall bear interest at a rate equal to the average rate of interest, computed as to the end of the calendar month next preceding the date of such issue, borne by all marketable interest-bearing obligations of the United States then forming a part of the public debt; except that where such average rate is not a multiple of one-eighth of 1 per centum, the rate of interest of such special obligations shall be the multiple of one-eighth of 1 per centum next lower than such average rate. Such special obligations shall be issued only if the Secretary determines that the purchase of other interest-bearing obligations of the United States, or of obligations guaranteed as to both principal and interest by the United States or original issue or at the market price, is not in the public interest.

(c) Sale and redemption of obligations.

Any obligation acquired by the fund (except special obligations issued exclusively to the fund) may be sold by the Secretary at the market price, and such special obligations may be redeemed at par plus accrued interest.

(d) Credit to the fund of interest and proceeds of sale or redemption.

The interest on, and the proceeds from the sale or redemption of, any obligations held in the fund shall be credited to and form a part of the fund. (Pub. L. 93–642, § 10, Jan. 4, 1975, 88 Stat. 2279.)

REFERENCES IN TEXT

The Second Liberty Bond Act, referred to in subsec. (b), is act Sept. 24, 1917, ch. 56, 40 Stat. 288, as amended, which was classified to section 745, former section 747, sections 752, 752a, 753, 754, 754a, 754b, 757, 757b, and 757c, former section 757c–1, sections 757c–2, 757c–3, 757c–4, 757d, 757e, 758, 760, and 764, former section 765, and sections 766, 769, 771, 773, 774, and 801 of Title 31, Money and Finance.

§ 2010. Same; expenditures and audit.

(a) The Secretary is authorized to pay to the Foundation from the interest and earnings of the fund such sums as the Board determines are necessary and appropriate to enable the Foundation to carry out the purposes of this chapter.

(b) The activities of the Foundation under this chapter may be audited by the General Accounting Office under such rules and regulations as may be prescribed by the Comptroller General of the United States. The representatives of the General Accounting Office shall have access to all books, accounts, records, reports, and files and all other papers, things, or property belonging to or in use by the Foundation, pertaining to such activities and necessary to facilitate the audit. (Pub. L. 93–642, § 11, Jan. 4, 1975, 88 Stat. 2279.)

§ 2011. Same; Executive Secretary; functions and compensation.

(a) There shall be an Executive Secretary of the Foundation who shall be appointed by the Board. The Executive Secretary shall be the chief executive officer of the Foundation and shall carry out the functions of the Foundation subject to the supervision and direction of the Board. The Executive Secretary shall carry out such other functions consistent with the provisions of this chapter as the Board shall delegate.

(b) The Executive Secretary of the Foundation shall be compensated at the rate specified for employees placed in grade 18 of the General Schedule set forth in section 5332 of Title 5. (Pub. L. 93–642, § 12, Jan. 4, 1975, 88 Stat. 2280.)

§ 2012. Administrative provisions.

(a) In order to carry out the provisions of this chapter, the Foundation is authorized to—

(1) appoint and fix the compensation of such personnel as may be necessary to carry out the provisions of this chapter, except that in no case shall employees other than the Executive Secretary be compensated at a rate to exceed the rate provided for employees in grade 15 of the General Schedule set forth in section 5332 of Title 5;

(2) procure temporary and intermittent services of experts and consultants as are necessary to the extent authorized by section 3109 of Title 5, but at rates not to exceed the rate specified at the time of such service for grade GS–18 in section 5332 of such title;

(3) prescribe such regulations as it deems necessary governing the manner in which its functions shall be carried out;

(4) receive money and other property donated, bequeathed, or devised, without condition or restriction other than it be used for the purposes of the Foundation; and to use, sell, or otherwise dispose of such property for the purpose of carrying out its functions;

(5) accept and utilize the services of voluntary and noncompensated personnel and reimburse them for travel expenses, including per diem, as authorized by section 5703 of Title 5;

(6) enter into contracts, grants, or other arrangements, or modifications thereof, to carry out the provisions of this chapter, and such contracts or modifications thereof may, with the concurrence of two-thirds of the members of the Board, be entered into without performance or other bonds, and without regard to section 5 of Title 41;

(7) make advances, progress, and other payments which the Board deems necessary under this chapter without regard to the provisions of section 529 of Title 31;

(8) rent office space in the District of Columbia; and

(9) make other necessary expenditures.

(b) The Foundation shall submit to the President and to the Congress an annual report of its operations under this chapter. (Pub. L. 93–642, § 13, Jan. 4, 1975, 88 Stat. 2280.)

§ 2013. Authorization of appropriations.

There are authorized to be appropriated $30,000,000 to the fund. (Pub. L. 93–642, § 14, Jan. 4, 1975, 88 Stat. 2280.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2009 of this title.

Chapter 43.—AMERICAN FOLKLIFE PRESERVATION [NEW]

Sec.
2101. Congressional declaration of findings and purpose.
2102. Definitions.
2103. American Folklife Center.
(a) Establishment.
(b) Board of Trustees; composition; regional balance.
(c) Term of office.
(d) Compensation of Board members; travel expenses.
(e) Chairman; Vice Chairman; election; vacancies; quorum.
(f) Director; Deputy Director; appointment and compensation.
(g) Duties of Director and Deputy Director.
2104. Functions of the Center.
2105. Limitations on contracts.
(a) Time.
(b) Items excluded.
(c) Former government employees.
2106. Administration; annual report.
2107. Authorization of appropriations.

§ 2101. Congressional declaration of findings and purpose.

(a) The Congress hereby finds and declares—

(1) that the diversity inherent in American folklife has contributed greatly to the cultural richness of the Nation and has fostered a sense of individuality and identity among the American people;

(2) that the history of the United States effectively demonstrates that building a strong nation does not require the sacrifice of cultural differences;

(3) that American folklife has a fundamental influence on the desires, beliefs, values, and character of the American people;

(4) that it is appropriate and necessary for the Federal Government to support research and scholarship in American folklife in order to contribute to an understanding of the complex problems of the basic desires, beliefs, and values of the American people in both rural and urban areas;

(5) that the encouragement and support of American folklife, while primarily a matter for private and local initiative, is also an appropriate matter of concern to the Federal Government; and

(6) that it is in the interest of the general welfare of the Nation to preserve, support, revitalize, and disseminate American folklife traditions and arts.

(b) It is therefore the purpose of this chapter to establish in the Library of Congress an American Folklife Center to preserve and present American folklife. (Pub. L. 94–201, § 2, Jan. 2, 1976, 89 Stat. 1129.)

SHORT TITLE

Section 1 of Pub. L. 94–201 provided: "That this Act [enacting this chapter] may be cited as the 'American Folklife Preservation Act'."

§ 2102. Definitions.

As used in this chapter—

(1) the term "American folklife" means the traditional expressive culture shared within the various groups in the United States: familial, ethnic, occupational, religious, regional; expressive culture includes a wide range of creative and symbolic forms such as custom, belief, technical skill, language, literature, art, architecture, music, play, dance, drama, ritual, pagentry, handicraft; these expressions are mainly learned orally, by imitation, or in performance, and are generally maintained without benefit of formal instruction or institutional direction;

(2) the term "Board" means the Board of Trustees of the Center;

(3) the term "Center" means the American Folklife Center established under this chapter;

(4) the term "group" includes any State or public agency or institution and any nonprofit society, institution, organization, association, or establishment in the United States;

(5) the term "Librarian" means the Librarian of Congress;

(6) the term "State" includes, in addition to the several States of the Union, the Commonwealth of Puerto Rico, the District of Columbia, Guam, American Samoa, and the Virgin Islands; and

(7) the term "workshop" means an activity the primary purpose of which is to encourage the development of skills, appreciation, or enjoyment of American folklife among amateur, student, or nonprofessional participants, or to promote scholarship or teaching among the participants.

(Pub. L. 94–201, § 3, Jan. 2, 1976, 89 Stat. 1129.)

§ 2103. American Folklife Center.

(a) Establishment.

There is hereby established in the Library of Congress an American Folklife Center.

(b) Board of Trustees; composition; regional balance.

The Center shall be under the direction of a Board of Trustees. The Board shall be composed as follows—

(1) four members appointed by the President from among individuals who are officials of Federal departments and agencies concerned with some aspect of American folklife traditions and arts;

(2) four members appointed by the President pro tempore of the Senate from among individuals from private life who are widely recognized by virtue of their scholarship, experience, creativity, or interest in American folklife traditions and

arts, and four members appointed by the Speaker of the House of Representatives from among such individuals;

(3) the Librarian of Congress;

(4) the Secretary of the Smithsonian Institution;

(5) the Chairman of the National Endowment for the Arts;

(6) the Chairman of the National Endowment for the Humanities; and

(7) the Director of the Center.

In making appointments from private life under clause 2, the President pro tempore of the Senate and the Speaker of the House of Representatives shall give due consideration to the appointment of individuals who collectively will provide appropriate regional balance on the Board. Not more than three of the members appointed by the President pro tempore of the Senate or by the Speaker of the House of Representatives may be affiliated with the same political party.

(c) Term of office.

The term of office of each appointed member of the Board shall be six years; except that (1) (A) the members first appointed under clause (1) of subsection (b) of this section shall serve as designated by the President, one for a term of two years, two for a term of four years, and one for a term of six years, and (B) the members first appointed under clause (2) of subsection (b) of this section shall serve as jointly designated by the President pro tempore of the Senate and the Speaker of the House of Representatives, two for terms of two years, four for terms of four years, and two for terms of six years; and (2) any member appointed to fill a vacancy occurring prior to the expiration of the term to which his precedessor was appointed shall be appointed for the remainder of such term.

(d) Compensation of Board members; travel expenses.

Members of the Board who are not regular full-time employees of the United States shall be entitled, while serving on business of the Center, to receive compensation at rates fixed by the Librarian, but not exceeding $100 per diem, including traveltime; and while so serving away from their homes or regular places of business, they may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of Title 5 for persons in Government service employed intermittently.

(e) Chairman; Vice Chairman; election; vacancies; quorum.

(1) The Librarian shall call the first meeting of the Board, at which the first order of business shall be the election of a Chairman and a Vice Chairman, who shall serve for a term of one year. Thereafter each Chairman and Vice Chairman shall be elected for a term of two years. The Vice Chairman shall perform the duties of the Chairman in his absence. In case of a vacancy occurring in the chairmanship or vice-chairmanship, the Board shall elect a member to fill the vacancy for the remainder of the unexpired term.

(2) A majority of the members of the Board shall constitute a quorum.

(f) Director; Deputy Director; appointment and compensation.

After consultation with the Board, the Librarian shall appoint the Director of the Center. The basic pay of the Director shall be at a per year rate not to exceed GS–18 of the General Schedule under section 5332 of Title 5. The Librarian upon the recommendation of the Director shall appoint a Deputy Director of the Center. The basic pay of the Deputy Director shall be fixed at a rate not to exceed GS–16 of the General Schedule under section 5332 of such title.

(g) Duties of Director and Deputy Director.

(1) The Director shall be the chief executive officer of the Center. Subject to the direction of the Board and the general supervision of the Librarian, the Director shall have responsibility for carrying out functions of the Center, and shall have authority over all personnel and activities of the Center.

(2) The Deputy Director shall perform such functions as the Director, with the approval of the Librarian, may prescribe, and shall serve as Acting Director during the absence or disability of the Director or in the event of a vacancy in the office of the Director. (Pub. L. 94–201, § 4, Jan. 2, 1976, 89 Stat. 1130.)

§ 2104. Functions of the Center.

(a) The Librarian is authorized to—

(1) enter into, in conformity with Federal procurement statutes and regulations, contracts with individuals and groups for programs for the—

(A) initiation, encouragement, support, organization, and promotion of research, scholarship, and training in American folklife;

(B) initiation, promotion, support, organization, and production of live performances, festivals, exhibits, and workshops related to American folklife;

(C) purchase, receipt, production, arrangement for, and support of the production of exhibitions, displays, publications, and presentations (including presentations by still and motion picture films, and audio and visual magnetic tape recordings) which represent or illustrate some aspect of American folklife; and

(D) purchase, production, arrangement for, and support of the production of exhibitions, projects, presentations, and materials specially designed for classroom use representing or illustrating some aspect of American folklife;

(2) establish and maintain in conjunction with any Federal department, agency, or institution a national archive and center for American folklife;

(3) procure, receive, purchase, and collect for preservation or retention in an appropriate archive creative works, exhibitions, presentations, objects, materials, artifacts, manuscripts, publications, and audio and visual records (including still and motion picture film records, audio and visual magnetic tape recordings, written records, and manuscripts) which represent or illustrate some aspect of American folklife;

(4) loan, or otherwise make available, through Library of Congress procedures, any item in the archive established under this chapter to any individual or group;

(5) present, display, exhibit, disseminate, communicate, and broadcast to local, regional, State, or National audiences any exhibition, display, or presentation referred to in clause (3) of this section or any item in the archive established pursuant to clause (2) of this section, by making appropriate arrangements, including contracts with public, nonprofit, and private radio and television broadcasters, museums, educational institutions, and such other individuals and organizations, including corporations, as the Board deems appropriate;

(6) loan, lease, or otherwise make available to public, private, and nonprofit educational institutions, and State arts councils established pursuant to the National Foundation on the Arts and the Humanities Act of 1965, such exhibitions, programs, presentations, and material developed pursuant to clause (1)(D) of this subsection as the Board deems appropriate; and

(7) develop and implement other appropriate programs to preserve, support, revitalize, and disseminate American folklife.

(b) The Librarian shall carry out his functions under this chapter through the Center. (Pub. L. 94–201, § 5, Jan. 2, 1976, 89 Stat. 1131.)

REFERENCE IN TEXT

The National Foundation on the Arts and the Humanities Act of 1965, referred to in par. (a)(6), is classified to sections 951 et seq. of this title.

§ 2105. Limitations on contracts.

(a) Time.

No payment shall be made pursuant to this chapter to carry out any research or training over a period in excess of two years, except that with the concurrence of at least two-thirds of the members of the Board of the Center such research or training may be carried out over a period of not to exceed five years.

(b) Items excluded.

Assistance pursuant to this chapter shall not cover the cost of land acquisition, construction, building acquisitions, or acquisition of major equipment.

(c) Former government employees.

No individual formerly in the employment of the Federal Government shall be eligible to receive any assistance pursuant to this chapter, or to serve as a trustee of the Center in the two-year period following the termination of such employment. (Pub. L. 94–201, § 6, Jan. 2, 1976, 89 Stat. 1132.)

§ 2106. Administration; annual report.

(a) In addition to any authority vested in it by other provisions of this chapter, the Librarian of Congress, in carrying out the Center's functions, is authorized to—

(1) prescribe such regulations as he deems necessary;

(2) receive money and other property donated, bequeathed, or devised, without condition or restriction other than that it be for the purposes of the Center and to use, sell, or otherwise dispose of such property for the purpose of carrying out its functions, without reference to Federal property disposal statutes;

(3) in the discretion of the Board of Trustees, receive (and use, sell, or otherwise dispose of, in accordance with clause (2)) money and other property donated, bequeathed, or devised to the Center with a condition or restriction, including a condition that the Center use other funds of the Center for the purpose of the gift;

(4) appoint and fix the compensation of such personnel as may be necessary to carry out the provisions of this chapter in accordance with the provisions of chapter 51 and subchapter III of chapter 53 of Title 5 relating to classification and General Schedule pay rates, except that the Librarian of Congress may appoint and fix the compensation of a reasonable number of personnel without regard to the provisions of chapter 51 and subchapter III of chapter 53 of Title 5 relating to classification and General Schedule pay rates, but no individual so appointed shall receive compensation in excess of the rate received by the Deputy Director of the Center;

(5) obtain the services of experts and consultants in accordance with the provisions of section 3109 of Title 5;

(6) accept and utilize the services of voluntary and noncompensated personnel and reimburse them for travel expenses, including per diem, as authorized by section 5703 of Title 5;

(7) enter into contracts to carry out the provisions of this chapter, and such contracts may, with the concurrence of two-thirds of the members of the Board, be entered into without performance or other bonds and in conformity with section 5 of Title 41; and

(8) make advances, progress, and other payments which the Board deems necessary under this chapter in conformity with the provisions of section 529 of Title 31.

(b) The Director shall submit to the Librarian for inclusion in the annual report of the Library of Congress to the Congress an annual report of the operations of the Center under this chapter, which shall include a detailed statement of all private and public funds received and expended by it, and such recommendations as the Center deems appropriate. (Pub. L. 94–201, § 7, Jan. 2, 1976, 89 Stat. 1133.)

§ 2107. Authorization of appropriations.

There are authorized to be appropriated to the Center to carry out the provisions of this chapter $133,500 for the fiscal year 1976 and for the period from July 1 through September 30, 1976, $295,000 for the fiscal year 1977, and $349,000 for the fiscal year 1978. (Pub. L. 94–201, § 8, Jan. 2, 1976, 89 Stat. 1134.)